

Profile on Environmental and Social Considerations in Tanzania

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National Environmental Policy, December 1997

Environmental Management Act, 2004 (Excerpts)

Environmental Impact Assessment and Audit Regulations, 2005

National Land Policy

Land (Assessment of the Value of Land for Compensation) Regulations, 2001

Land (Comopensation Claims) Regulations, 2001

National Environmental Policy, December 1997

THE UNITED REPUBLIC OF TANZANIA

**NATIONAL ENVIRONMENTAL
POLICY**

**VICE PRESIDENT'S OFFICE
DAR ES SALAAM**

DECEMBER 1997

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CHAPTER ONE

INTRODUCTION

1. The word **Environment** commands a very broad meaning. It includes: air, land and water; plant and animal life including human life; the social, economic, recreational, cultural and aesthetic conditions and factors that influence the lives of human beings and their communities; buildings, structures, machines or other devices made by man; any solids, liquids, gases, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man; and any part or combination of the foregoing and the inter-relationships between two or more of them.

2. The lives of all Tanzanians are intimately connected to the environment: our survival and that of our future generations depends on the harmonious relationship with the natural elements. Tanzanians have no choice but strive to manage the environment and its natural resources in ways that enhance the potential for growth and opportunity for sustainable development of present and future generations. Tanzanians do not have the luxury of ignoring the fundamental stresses at the interface of development and environment. Environmental problems are real and are not someone else's problem. A healthy economy and a healthy environment go hand-in hand. Both are needed for our survival and prosperity.

3. There is a clear cause-and-effect relationship between poverty and environmental degradation. Environmental degradation leads to widespread poverty; equally, poverty is an habitual cause of environmental degradation as it undermines people's capacity to manage resources wisely. Problems of underdevelopment such as poverty, ill health and others that plague the majority of Tanzanians are as much environmental as they are developmental. Environmental protection is therefore a social and economic necessity. It is an integral component of sustainable development. Correspondingly,

sustainable development must be the central concept in environmental policy.

4. Satisfaction of basic needs is therefore an environmental concern of relevance to environmental policy. Investment in development is vital for environmental protection because the environment is the first victim of acute poverty, urban overcrowding, overgrazing, shrinkage of arable land and desertification. Resource channelling must be targeted to address poverty-related environmental problems. It must aim at eradicating communicable diseases, guaranteeing food, shelter, safe water for all, employment and income generation in rural and urban areas, particularly to combat poverty.

5. Sustainable development means achieving a quality of life that can be maintained for many generations because it is socially desirable, economically viable and environmentally sustainable. Development is sustainable if it takes place within nature's tolerance limits, both in the short and in the longer-term perspective. The challenge for all Tanzanians is to recognise the various demands made upon their environment, and reconcile these in ways which seek to maintain and enhance it for the future. Equally the purpose of development is to improve the quality of human life. Development is sustainable if it adequately addresses poverty in its broader sense as a composite index of human deprivation, extending from command over economic resources, access to education, food, shelter and energy needs, to control of the physical environmental quality. The challenge for the Government is how issues of environmental sustainability can be mainstreamed into the core of national development policy-making.

6. Tanzania is committed to sustainable development through short, medium and long term social and economic growth. The Government is currently undertaking strategies aimed at strengthening the financial base of social services through cost recovery; enhanced community participation and improved delivery systems and management of supplies. The driving motive for economic and social change will put our country at an important crossroads, where difficult choices will have to be made in assessing trade-offs between short-term economic gains which foreclose future options, and the better based sustainable development goals. Both these choices have important economic, sociopolitical, ecological and ethical considerations. Given the increased role of the market and private sector, the role of the Government in steering social sectors in environmental management will have to be highlighted and pursued with the keenest interest. The Government will pursue explicit policy objectives which take into account these considerations.

7. Tanzania took an active part in the preparations for, and during the United Nations Conference on Environment and Development which enshrined the integration of environmental concerns and economic development in the Rio Declaration on Environment and Development, and Agenda 21. It is working closely with other countries in the Region and the International community to contribute towards a peaceful, healthier and better global environment for present and future generations. Tanzania has become a party, and is implementing a number of global and Regional Environmental Treaties, as a basis for global and regional cooperation in the pursuit for sustainable development. It is host to important sub-regional programmes and projects conceived and implemented in concert with neighbouring countries, as a basis for harmonised management actions and approaches, and as a form of preventive diplomacy.

8. Agenda 21 stresses the need to move from a development model in which sectors act independently of each other, to a model in which there is integration across sectors, where decisions take into account intersectoral effects, to improve intersectoral coordination. This involves the integration of policies, plans and programmes of interacting sectors and interest groups to balance long-term and short-term needs in environment and development. It calls for a coherent policy where priorities can be defined for the promotion of long-term economic growth, creating incentives for sustainable utilisation of natural resources, disincentives for environmental pollution and degradation, and effective management of the overall environment.

9. For Tanzania, therefore, the role of Environmental policy lies in providing for the execution of a range of strategic functions, notably:-

- (a) Development of consensual agreement at all levels for the challenge of making trade-offs and the right choices between immediate economic benefits to meet short-term and urgent development needs, and long-term sustainability benefits;
- (b) Development of a unifying set of principles and objectives for integrated multisectoral approaches necessary in addressing the totality of the environment;
- (c) Fostering Government-wide commitment to the integration of environmental concerns in the sectoral policies, strategies and investment decisions, and to the development and use of relevant policy instruments which can do the most to achieve this objective; and
- (d) Creating the context for planning and coordination at a multisectoral level, to ensure a more systematic approach,

focus and consistency, for the ever-increasing variety of players and intensity of environmental activities.

10. Since environmental policy involves many sectors and interest groups, its scope is necessarily broad, and the logistical demand for overseeing its implementation and ensuring coordinated attention to interconnected challenges is complex. The challenge is to ensure that all concerned take priority actions on all the main fronts; and that their actions are mutually supportive, reflecting a mission commonly subscribed to, by all. This means that the environment must be subjected to greater accountability and control, with more effective instruments having clear objectives to be pursued. It means strengthening the functions of government and the corresponding institutions in environmental protection.

CHAPTER TWO

THE STATE OF THE ENVIRONMENT

11. The current state of the Tanzania environment is a matter of concern. A national analysis has identified six major problems for urgent attention. These are problems of: -

- (a) land degradation;
- (b) lack of accessible, good quality water for both urban and rural inhabitants;
- (c) Environmental pollution;
- (d) loss of wildlife habitats and biodiversity;
- (e) deterioration of aquatic systems; and
- (f) deforestation

Each of these is important to the economic well-being of the country and the health of the people.

12. To expand on the above problems, it is appreciated that: -
- (a) land degradation is reducing the productivity of soils in many parts of Tanzania;
 - (b) despite considerable national effort, over half the people in towns and in the countryside do not have access to good quality water for washing, cooking, drinking and bathing;
 - (c) pollution in towns and the countryside is affecting the health of many people, and has lowered the productivity of the environment;
 - (d) the loss of habitats for wildlife is threatening the national heritage and creating an uncertain future for the tourist industry;

- (e) the productivity of lake, river, coastal and marine waters is threatened by pollution and poor management; and
- (f) Tanzania forest and woodland heritage is being reduced year by year through clearance for agriculture, for woodfuel and for other demands.

13. The reasons for the current deteriorating state of the national environment, include: inadequate land and water management at various management levels; inadequate financial and human resources; the inequitable terms of international trade; the particular vulnerable nature of some local environments; rapid growth of rural and urban population and inadequate institutional coordination. These factors together are creating undue pressures on natural resource systems. Other important factors include inadequate monitoring and information systems, inadequate capacity to implement programmes, inadequate involvement of major stakeholders (eg, local communities, Non-Governmental Organisations, the private sector) in addressing environmental problems, inadequate integration of conservation measures in the planning and development of programmes.

14. These environmental problems have evolved over a long period of time, and are dispersed throughout the country. Although the costs relating to these problems cannot be quantified because of lack of data, the economic and social costs are high. It is understood that environmental degradation has had, and continues to have, adverse impact on the quality of human life and health.

15. A number of important measures have been initiated by the Government to promote political and economic change. Efforts are being made through economic reforms, to nudge the economic system towards a free market economy with increased role for the

independent sector. The shift towards political pluralism, and the relinquishing by Government of the major sectors of the economy to the private sector will generate important indicators on how natural resources are used and managed, on the impact on the environment of the enlarged involvement of social groups in the development process, and on the nature of policy directions and investment decisions relating to the environment and natural resources. Clearly, increased investments in various sectors of the economy will bear impacts on these variables. The restructuring and adjustment of the economy, including macro-economic changes, will impact on the use and allocation of natural resources, and on the environment.

16. During this economic transformation the Government views the agricultural and the industrial sectors, particularly tourism, mining and transportation infrastructure as the main impetus to economic growth. The Government is aware that, by promoting agriculture as the engine of growth, the sector could also bring forth significant adverse impacts on natural resources and the environment, in turn undermining further agricultural growth. Expansion in agriculture could imply bringing more land into production from existing forests and woodlands, wildlife areas; draining wetlands; expanding irrigated agriculture, accompanied with salinization and water-logging; and/or increasing the use of agrochemicals, overdosing cropland soil and threatening the quality of surface and groundwater, etc. Likewise the Government is also aware that the necessary “big push” on tourism, industrialisation and infrastructure will have implications for the use of natural resources and the environment.

CHAPTER THREE

OVERALL POLICY OBJECTIVES

17. The policy document seeks to provide the framework for making fundamental changes that are needed to bring environmental considerations into the mainstream of decision making in Tanzania. It seeks to provide policy guidelines, plans and give guidance to the determination of priority actions, and provides for monitoring and regular review of policies, plans and programmes. It further provides for sectoral and cross-sectoral policy analysis in order to achieve compatibility among sectors and interest groups and exploit synergies among them.

18. The overall objectives of the National Environmental Policy are therefore the following:

- (a) to ensure sustainability, security and equitable use of resources for meeting the basic needs of the present and future generations without degrading the environment or risking health or safety;
- (b) to prevent and control degradation of land, water, vegetation, and air which constitute our life support systems;
- (c) to conserve and enhance our natural and man-made heritage, including the biological diversity of the unique ecosystems of Tanzania;
- (d) to improve the condition and productivity of degraded areas including rural and urban settlements in order that all Tanzanians may live in safe, healthful, productive and aesthetically pleasing surroundings;

- (e) to raise public awareness and understanding of the essential linkages between environment and development, and to promote individual and community participation in environmental action;
- (f) to promote international cooperation on the environment agenda, and expand our participation and contribution to relevant bilateral, sub-regional, regional, and global organizations and programs, including implementation of Treaties.

SECTORAL AND CROSS-SECTORAL POLICIES

Cross-sectoral Policies

Addressing Poverty

19. Satisfaction of basic needs is an environmental concern of policy relevance. Investment in development is vital for environmental protection because the environment is the first victim of acute poverty, urban overcrowding, overgrazing, shrinkage of arable land and desiccation.

20. Therefore, environmental policy has two pronged focus: satisfaction of basic needs; and protecting the environment in the cause of development. Resource channelling shall be targeted to address poverty-related environmental problems. Strategic attention shall be directed towards eradicating communicable diseases; guaranteeing food, shelter, safe water for all, sustainable energy supply; as well as employment and income generation in rural and urban areas, particularly to combat poverty.

21. A proactive policy objective of natural resource conservation oriented towards the reduction of the vulnerability of the poor shall be pursued. Sectoral policies and programmes to

address poverty eradication shall take due account of need for sustainable resource exploitation.

Demographic dynamics

22. Demographic factors and trends have a synergetic relationship with developmental and environmental issues. In any case, a rapidly growing population, even with very low levels of consumption per capita, implies increasing consumption in absolute terms. This affects the use of land, water, energy and other natural resources. The accompanying rapid increase in the number and size of urban centres also poses dramatic additional demands to the capacity to provide serviced land, shelter, infrastructure and employment.

23. In view of the multiple linkages involved, environmental policy objectives on population must have a broader focus than controlling numbers. Population programmes are more effective when implemented in the context of appropriate cross-sectoral policies.

24. Therefore, special emphasis should be placed on those policies that aim at multiple objectives. Such policies are those that combine environmental concerns and population issues within a holistic view of development, and whose primary objectives include the alleviation of poverty; secure livelihoods; environmental sanitation and health improvement.

25. In particular, the following policy objectives on population shall be pursued: -

- (a) Population literacy programmes, both through the formal and non-formal education sectors, with special emphasis on linkages with primary environmental care, primary health

- care, basic shelter, food security, access to secure tenure and infrastructure;
- (b) Generation of socio-demographic information, and mitigation of the direct and induced effects of demographic changes on the environment, with respect to critical resources such as land, water and ecosystem health, taking account of community needs;
 - (c) Promoting awareness of the critical role of women on population and environmental issues through increased access to education, and expanding primary and reproductive health care programmes to reduce maternal and infant mortality, taking account of culturally-based information that transmit reproductive health messages, and ethical and cultural values. Empowerment of women is essential, and could be assured through education, training and policies that accord and improve women's right and access to assets, labour-saving measures and job opportunities.

Land tenure

26. Resources which belong to everyone easily become the care of no one. The ownership of land and land resources, access to, and the right to use them are of fundamental importance, not only for a more balanced and equitable development, but also to the level of care accorded to the environment. It is only when people can satisfy their needs, have control of their resource base, and have secure tenure to land that the longer-term objectives of environmental protection can be satisfied.

27. Therefore, integrated land use planning, secure access to land resources, and the right to participate in decisions relating to their management shall be ensured.

Technology

28. Science and Technology have a central role in the exploitation, processing and utilisation of natural resources, and in the resulting environmental impacts. The technology used has a bearing in the quality of a product and in the type and amount of the resulting waste and emissions. Environmentally sound technologies in the context of pollution are “process and product technologies” that generate low or no waste, for the prevention of pollution. They also cover “end-of-the-pipe” technologies for treatment of pollution after it has been generated.

29. The primary policy objective shall be the promotion of the use environmentally sound technologies, that is, technologies that protect the environment, are less polluting, use all resources in a more sustainable manner, recycle more of their wastes and products, and handle residue wastes in a more acceptable manner than the technologies for which they are substitutes.

30. The Principle of best-achievable environmentally sound technologies will be applied in all cases.

Biodiversity

31. Tanzania prides itself for having outstanding biodiversity due to diverse ecosystems, topography and climate. It is one of the fourteen biodiversity hot spot countries in the world. The need to exploit this rich biodiversity sustainably is recognised. This situation places a responsibility for undertaking biodiversity actions that meet both the competing requirements of the present and the legitimate claims of future generations.

32. For this purpose, actions shall be focused on information generation towards a comprehensive overview of Tanzania’s

biodiversity resources, their status and trends, and the costs and benefits of their conservation in order to provide basic understanding for the formulation of strategic interventions. Programmes for the conservation and utilisation of biological diversity shall be pursued to prevent and control the causes of significant reduction or loss of biological diversity. Strategic measures shall be put in place for the development of biotechnology, especially to ensure fair and equitable sharing of the results and benefits arising out of utilisation by foreign recipients, of genetic resources originating from Tanzania, and biosafety.

33. Biodiversity policies, strategies and programmes are only meaningful in relation to other national policies, strategies and programmes. Therefore, policies, strategies and programmes for the conservation of biological diversity and sustainable use of biological and genetic resources shall be integrated into relevant sectoral/cross-sectoral policies, strategies and programmes.

Public Participation and Education

34. If sustainable development is truly to be our common goal, it must engage the interests and actions, not only of government experts, but of all Tanzanians in all walks of life. Environmental management must be everybody's responsibility. Everyone has the opportunity to make environmentally-responsible choices that can reduce or minimise their impacts on the environment and promote sustainable development. That responsibility can only be met through cooperative efforts at all levels of society. The actions of all Tanzanians as consumers and producers, as business operators and as policy-makers have an impact on the environment. While actions of one person or group alone may appear insignificant, those of twenty-five million Tanzanians do matter when combined at local, regional and national levels. The protection of the

environment shall be the responsibility of each and every Tanzanian, just as the quality of the environment is a concern for each and all.

35. Environmental issues are best handled with the participation of all citizens at the relevant level. It is widely recognised that interventions which are likely to have positive impacts are those which enjoy the greatest support from grassroots. It is also recognised that ideal interventions are those that are based on the people's own initiatives, and for which solutions are geared towards felt needs, thereby diminishing the gap between theory and practice. Local level environmental action is in-situ, responds to specific needs which can change quickly, and is small. Environmental action by national institutions on the other hand is ex-situ, could be comparatively rigid, based in a large institution often in an urban setting, and is large scale. There is absolute necessity to exercise a bottom-up approach in problem identification, project planning, implementation and monitoring.

36. The major responsibilities of government institutions and non-governmental organisations at this level is to assist local communities become aware of their own situation and support them to become responsible for their own destiny. Local communities will participate if they are persuaded that it is right and necessary to do so; when they have sufficient incentive, and the required knowledge and skills. Environmental education and awareness raising programmes shall be undertaken in order to promote informed opinion.

37. Introduction of environmental education, particularly in primary and secondary school curricula creates an enduring awareness by inculcating values that support responsible environmental care and discourage attitudes that are incompatible with sustainable ways of life. This shall be undertaken.

38. Critical to the effective implementation of the policy objectives therefore will be the commitment and genuine involvement of all institutions and sectors of society. Formal and informal organisations in society, as well as grass-roots movements are partners in the implementation of Environmental policy objectives. The fundamental prerequisites for achievement of sustainable development is broad public participation in decision-making, including the participation of individuals, groups and organisations in environmental impact assessment issues and in decisions, particularly those which potentially affect the communities in which they live and work.

39. Sustainable management of environmental resources and the need to continuously anticipate emerging challenges, requires availability of timely, upto date and accurate information. Generation, assembly and dissemination of information related to environmental management shall be ensured.

The Private Sector and NGOs

40. The roles of non-State actors are vital in the shaping and implementation of participatory democracy. Non-Governmental Organisations possess diverse experience, expertise and capacity in fields relevant to the implementation of environmental objectives. The nature and the independent role they play is a major attribute and precondition of real participation.

41. The private sector, particularly within business and industry can play a major role in reducing the stress on resource use and the environment. There is increasing recognition that production, technological and management approaches that use resources inefficiently form residues which are not reused, discharge wastes that have adverse impacts on human health and the environment,

and manufacture products that when used have further impacts and are difficult to recycle. Improvement of production systems through technologies and processes that utilise resources more efficiently and at the same time generate less waste; that reclaim, recycle and re-use by-products, to a very large extent is within the province of business and industry. By striving for optimal efficiencies at every stage of the product life cycle, good engineering and management practices and know-how; implementing self-regulations; and assuming greater responsibility in ensuring that their activities have minimal impacts on human health and the environment, Business and Industry can achieve more for environmental objectives with less resources.

42. The private sector, and the community of Non-governmental organisations therefore offer a national network that should be tapped, enabled and strengthened in support of efforts to achieve environmental objectives. In order to ensure that the full potential contribution of the private sector and Non-governmental organisations is realised, the fullest possible communication and cooperation between them and national and local authorities, and all institutions mandated to execute environmental objectives must be pursued. The private sector and Non-governmental organisations will also need to foster cooperation and communication between and among themselves to reinforce their effectiveness as major players in environmental activities. In order to achieve this objective they will need to establish their own mechanisms of cooperative networks to facilitate sharing of experiences and expertise for the planning, design and implementation of environmental programmes at national, regional, district and community levels.

The Enhanced Role of Women

43. Women are the natural resource managers in our society. Their knowledge, experience, and traditional skills in the

management of resource stocks and households should be tapped for increased environmental action. The role of women in environmentally-related activities will be recognised and promoted with a view to achieving increased women's involvement and integration in all environmental management areas.

44. Empowerment of women is a critical factor in the eradication of poverty and effective participation of women in environmental activities. In so far as the productive potential of women is impaired by the disproportionate burden they bear in the management of household consumption and production, on account of gender division of labour, emphasis shall be placed on addressing the structural causes of poverty and reducing gender-based inequality within the overall framework of achieving environmentally sound development. Such emphasis shall focus on literacy of women as a key element for the improvement of health, nutrition and education in the family, and for empowering women to participate in decision-making in society; as well as in anti-poverty programmes such as employment schemes and credit facilities for women, among other measures.

Sectoral Policies

45. Environmental impacts of actions in one sector are often felt in other sectors. This is why environmental goals, objectives and actions cannot be understood and framed in isolation from the development and policy sectors in which they emanate. Internalization of environmental considerations in sectoral policies and programmes, and their coordination is essential to achieve sustainable development.

Agriculture

46. The main objective is to ensure food security and eradication of rural poverty through the promotion of production systems,

technologies and practices that are environmentally sound. The following specific policy objectives shall be pursued: -

- (a) improvement of land husbandry through soil erosion control and soil fertility improvement;
- (b) intensification and diversification of agricultural production;
- (c) minimization of encroachment in public lands including forests, woodlands, wetlands and pastures;
- (d) strengthening of environmentally sound use, monitoring, registration and management of agrochemicals;
- (e) control of agricultural run-offs of agrochemicals to minimize pollution of both surface and ground water;
- (f) promotion of mixed farming, to intensify biological processes on farmlands through multiple cropping, intercropping, crop rotation and agroforestry;
- (g) improvement in water use efficiency in irrigation, including control of water logging and salinization;
- (h) intensification of wild and domesticated plant genetic conservation programmes; and
- (i) promotion of integrated and holistic approaches through land use planning and management.

Livestock

47. The main objective of the livestock sector is to stimulate development of livestock industry in the country taking due regard of the environment. In order to ensure sustainable livestock industry development, the following policy objectives shall be pursued: -

- (a) development and application of environmentally friendly tse-tse fly control methods;
- (b) improvement and conservation of grazing lands and preservation of feed resources (promotion of planting of fodder crops, establishment of fodder banks, and stall feeding);

- (c) promotion of mechanisms for resolving conflicts among different land use interests (wildlife protection, forestry, pastoralism and agriculture);
- (d) restoration and protection of grazing lands, and promotion of rotational grazing;
- (e) management and control of the migration of livestock; and
- (f) implementation of animal genetic resource conservation programmes.

Water and Sanitation

48. The environmental objective in the Water, Sewerage and Sanitation sector is to support the overall national objective of providing clean and safe drinking water to within easy reach, to satisfy other water needs, to protect water sources and to prevent environmental pollution. In order to achieve this, the following policy objectives shall be pursued:-

- (a) planning and implementation of water resources and other development programmes in an integrated manner and in ways that protect water catchment areas and their vegetation cover;
- (b) improved management and conservation of wetlands;
- (c) promotion of technology for efficient and safe water use, particularly for water and waste water treatment, and recycling; and
- (d) institution of appropriate user-charges that reflect the full value of water resources.

49. In respect of marine and coastal waters the policy objective is the prevention, reduction and control of pollution of the marine and coastal waters, including that from land-based sources of pollution.

Health

50. The main objective here is to protect public health, not in the narrow though indispensable sense of curing diseases, but in the broad sense of promoting human well-being and informed participation in primary environmental care. The policy objectives to be pursued are: -

- (a) provision of community needs for environmental infrastructure, such as safe and efficient water supplies, sewage treatment and waste disposal services; and
- (b) promotion of other health-related programmes such as food hygiene, separation of toxic/hazardous wastes and pollution control at the household level.

Transport

51. The transport sector shall focus on the following environmental objectives:-

- (a) improvement in mass transport systems to reduce fuel consumption, traffic congestion and pollution;
- (b) control and minimisation of transport emission gases, noise, dust and particulates; and
- (c) disaster/spill prevention and response plans and standards shall be formulated for transportation of hazardous/dangerous materials.

Energy

52. The main objective is the sound management of the impacts of energy development and use in order to minimise environmental degradation. The policy objectives to be pursued are: -

- (a) minimization of woodfuel consumption through the development of alternative energy sources and woodfuel energy efficiency;

- (b) promotion of sustainable renewable energy resources;
- (c) assessment and control of development and use of energy;
and
- (d) energy efficiency and conservation.

Mining

53. The policy objective from an environmental perspective is the prevention, reduction, control and elimination of damage, and minimization of the risk thereof from the generation, management, transportation, handling and disposal of hazardous wastes, other wastes and emissions.

54. Much of the mining done in Tanzania is artisanal and large concentrations of these small scale miners are found in gold-bearing areas. Large scale mining is also on the increase. The problem here is the use of mercury which pollutes water sources and is dangerous to health on account of its adverse effects on the human nervous system. The following policies shall be undertaken to minimise pollution arising from the mining sector:-

- (a) overall project cycle of mining (including reclamation and restoration of land after use) shall be adequately managed to minimize adverse environmental impacts;
- (b) mining discharges to grounds and water shall be controlled;
- (c) preventive and clean up measures for accidents shall be formulated and implemented;
- (d) air pollution from mining areas shall be controlled.
- (e) strict regulations shall be put in place to control the use of mercury in mining activities, use of retorts will be promoted;
and
- (f) regular and periodic environmental audits shall be maintained to ensure the adoption of environmentally sound practices in mining operations.

Human Settlements

55. Urbanisation is the major issue in the transformation of human settlements. A major and growing portion of Tanzania's population will soon be located in urban areas. Urban centres are more and more subject to dramatic crisis; poverty, environmental decline, inadequate urban services, deterioration of existing services and access to serviced land and shelter are deprivations of increasing severity. The following policy objectives shall be pursued:-

- (a) integrated planning and improved management of urban centres and designation of urban land uses based on environmental impact considerations;
- (b) decentralisation of urban development through the promotion of intermediate towns and trade centres, on the basis of a human settlement perspective plan at national, regional and district levels;
- (c) development of gardens, parks, open spaces in urban centres for public use; greenbelts with pollution tolerant species; and more generally, planting of shade-giving and fruit-bearing as well as ornamental trees along urban roads, school compounds, hospitals, government and private office building compounds, peripheries of play grounds, water bodies, places of worship, assemblies, markets, etc;
- (d) control of indiscriminate urban development, particularly in vulnerable sites such as coastal beaches, flood-prone and hilly areas;
- (e) promotion of resource-based strategies in the planning and development of human settlements; and
- (f) development of environmentally sound waste management systems especially for urban areas.

Industry

56. The policy objective with respect to environmental protection is the prevention, reduction, control and limitation of

damage, and minimisation of the risk from the generation, management, transportation, handling and disposal of hazardous wastes, other wastes and emissions. The following policy objectives shall be pursued;

- (a) industries shall be planned in a manner that minimizes adverse effects on the environment at all stages (i.e. location, effluent discharge, waste disposal, use and disposal of products);
- (b) industrial emissions shall be controlled;
- (c) application of environmental impact assessment (EIA) as an essential element in industrial planning and development for taking account of potentially harmful activities on the environment;
- (d) environmental audits/inventory shall be carried out for both new and existing industries for pollution control and waste minimisation;
- (e) installation of resource-saving and waste-recycling facilities, use of clean technology and production of safe and less toxic products shall be promoted and supported;
- (f) workers health shall be adequately protected from environmental health hazards;
- (g) a review will be made of laws, rules, and regulations governing importation, manufacture, transportation, handling, use, storage and disposal of toxic chemicals, and dangerous products, hazardous wastes and hazardous substances, as appropriate;
- (h) permissible noise levels in noise-prone industries and construction sites will be prescribed.

Tourism

57. Tourism development will be promoted based on careful assessment of the carrying capacity and prior Environmental Impact

Assessment application. Environmentally friendly tourism (ecotourism) and diversification of tourism activities will be promoted, e.g. conservation and promotion of cultural heritage sites, in order to decrease pressures on heavily impacted areas. Financial benefits from tourism activities shall accrue in part to the local community to motivate them in conservation of tourism resources.

Wildlife

58. Wildlife resources shall be protected and utilized in a sustainable manner on the basis of careful assessment of natural heritage in flora and fauna fragile ecosystems, sites under pressure and endangered species, with participation of, and benefits to, the local communities. Environmentally adverse impacts of development projects in wildlife conservation areas (e.g. tourist hotels, rail construction) will be minimized by EIA studies. Game ranching and captivity breeding for certain species will be encouraged.

Forestry

59. The main objective is the development of sustainable regimes for soil conservation and forest protection, taking into account the close links between desertification, deforestation, freshwater availability, climate change and biological diversity. The following policy objectives shall be pursued: -

- (a) rational exploitation of forest resources accompanied with reforestation and afforestation programmes shall be promoted and enforced to meet requirements of domestic consumption and export earnings in a sustainable manner;
- (b) forest/tree cover shall be increased through afforestation;
- (c) proper management and law enforcement shall be practised for all public lands;
- (d) natural forest with biological diversity value and genetic resources shall be conserved; account will be taken of the

dangers of monoculture and to the extent possible natural forests will not be replaced by exotic species; and

- (e) farmers, business communities, non-governmental organizations (NGOs), schools and others will be motivated to embark on tree planting. Financial and other incentives will be encouraged.

Fisheries

60. In order to preserve the environment and at the same time, provide nutrition to the people and enhance their income from fish sales, the following policy objectives shall be pursued: -

- (a) fisheries shall be developed in a sustainable manner, by using appropriate fishing gear and processing methods;
- (b) destructive fishing and processing methods shall be controlled by regulation and support i.e making available appropriate fishing gear at affordable prices for fishermen; specifically, dynamite fishing and the use of poisonous chemicals in fishing shall be severely combated.
- (c) alternative fish processing methods shall be promoted to avoid deforestation due to fish smoking;
- (d) on the basis of stock assessment, fish stocks shall be conserved to maximize sustainable yield;
- (e) introduction of non-indigenous species, shall be controlled;
- (f) post harvest losses will be reduced through improved processing and preservation techniques;
- (g) fragile ecosystems and endangered species will be protected through proper fisheries management, mitigation/prevention of coastal and waterways degradation, and control of industrial pollution; and
- (h) integrated fish farming methods and other environmentally beneficial means of tapping the productivity of the environment through fish farming shall be pursued.

CHAPTER FOUR

INSTRUMENTS FOR ENVIRONMENTAL POLICY

61. The environment is both a natural and a cultural heritage. It is appreciated that indigenous knowledge and culture have helped in the protection of the environment in the past. The present and future generations, therefore, can benefit from this knowledge.

62. Achievement of proposed policy objectives on the above sectoral and cross-sectoral environmental concerns suggests the use of the most effective means. Such means must ensure that the exploitation of natural resources, the direction of investment and the orientation of technological development are all in harmony and enhance both the current and future potential to satisfy human needs and aspirations. In their combined effect, effective policy instruments must promote these important aims, namely; anticipatory and preventive responses rather than reactive responses; voluntary compliance as a first resort; economic growth objectives and environmental objectives which are mutually supportive; and long-term and short-term objectives which are reconciled. The following are considered priority policy instruments.

Environmental Impact Assessment

63. Although it is important to tackle immediate environmental problems, precautionary, anticipatory and preventive approaches are the most effective and economical measures in achieving environmentally sound development. Successful implementation of the Environmental Policy requires the optimisation of goal achievement both within and across sectors.

64. In practical terms this requires finding the right balance between natural processes and unavoidable human interventions.

Allowance can be made for human intervention only if we know before hand what impact it will have. A great deal of unnecessary damage and loss can be avoided by creating a degree of harmony between man-made interventions and natural laws. This adaptive process of trade-offs requires agreement amongst many sectors and interest groups.

65. It is in the context of an Environmental Impact Assessment (EIA) regime that policy guidance on choices to maximise long-term benefits of development and environmental objectives can be revealed and decided upon. EIA as a planning tool shall be used to integrate environmental considerations in the decision-making process, in order to ensure that unnecessary damage to the environment is avoided. It shall be a mandatory requirement to ensure that environmental concerns receive due and balanced consideration in reconciling urgent development needs and long-term sustainability, before a final decision is made. In this way, environmental considerations will not become an afterthought in planning and decision-making, but rather, part of our consciousness and awareness of our development realities.

66. As part of the strategy in the implementation of the National Environmental Policy, guidelines and specific criteria for the conduct of EIA will be formulated. One of the cornerstones of the EIA process will be the institution of public consultations and public hearings in the EIA procedures.

67. Environmental degradation many times arises out of the promulgation and implementation of bad sectoral and macro policies. In order to mitigate the effects of existing and future policies on the environment, strategic environmental impact assessment will be applied on those policies which impact on the environment.

Environmental Legislation

68. Environmental law is an essential component of effective environmental management and improvement of the quality of life. The inherent nature of environmental law to set demands, impose duties and limits and create obligations for the individual for private and public bodies means that it can make a clear contribution to fit human activities into laws that govern the patterns of our air, water, soils and plant and animal life.

69. The broad range of areas covered under the field of environment, the structure and division of Government functions, and the numerous number of major players necessitate the formulation of a framework environmental legislation and a related set of sectoral legislations to provide the legal basis for effective and comprehensive environmental management.

70. The framework environmental legislation shall be designed to organise various agencies of Government charged with aspects of environmental protection to promote coordination and cooperation among them, and shall define environmental management tools of general scope that facilitate an even degree of policing and enforcement. Sectoral legislations shall be designed in such a way as to factor environmental policy objectives in their areas of coverage.

71. It is recognised that for effectiveness, environmental law must be understood and appreciated by the people to whom it is aimed. It is therefore stressed that other instruments like public education and public awareness are essential and complementary policy instruments. Furthermore environmental standards and procedures have to be in place before or as a result of legislation for this instrument to be effective.

72. Tanzania is a signatory and has acceded to a number of International Treaties on environment. A review of these Treaties will be made with a view to incorporating them into national legislation.

Economic Instruments

73. The market place does not yet provide decision-makers, producers and consumers with appropriate signals about the value of the environment because most environmental resources and services are either undervalued or considered as common property. A balanced use of regulations and suitable market-based approaches for environmental protection can form a sound basis for sending out “green signals”. The most important advantage of economic instruments is their ability to achieve a specified level of environmental protection at lower cost, particularly where they are designed to match the cost of achieving a predetermined and tangible environmental goal. Economic instruments are also able to take into account the reality that the cost of controlling a particular environmental problem may not be the same for all causes.

74. Resource prices are themselves economic instruments that can play a critical role in encouraging efficient and environmentally responsible management of natural resources, and influence users to act in ways consistent with sound economic and environmental values. User-charges are applicable for the use of collective goods and services, and are practised in the country. Ideally, the charge should match the cost of supplying the service consumed, so that consumers have an incentive not to over-use the service or abuse it.

75. While economic instruments are not necessarily the most effective means of choice for every environmental problem, their

application can be linked to specific environmental problems, so that they are made relevant in their design and application to the problems. Already, deposit-refund schemes are practised in Tanzania primarily to encourage the return of beverage containers, and shall be used for other products which can be recycled or recovered, and which create environmental problems if not disposed of in an acceptable manner, such as acid batteries and oils, or plastics with long life cycles.

76. As far as possible the preventive approach to environmental problems shall be given top priority. Liability for environmental pollution shall not be passed on. The polluter-pays principle shall be adopted and implemented deterrently. In principle it shall be the responsibility of those who pollute to repair and bear the costs of pollution caused and rehabilitation, where appropriate.

Environmental Standards and Indicators

77. Sustaining life of all forms is a question of balance. There are finite limits to the carrying capacity of ecosystems, that is, to the impacts that they, and the environment in general can withstand without dangerous deterioration. The limits vary with each ecological setting and from locality to locality; and the scale and severity of impacts depend on the intensity of human activities, such as how much food, water, energy and raw materials are exploited, and wastes disposed.

78. Policies that bring human activities into balance with nature's carrying capacity, as well as technologies and practices that enhance that capacity through careful management form a sound basis for sustainable development.

79. Making timely and sound policies decisions requires relevant, valid and reliable environmental criteria reflecting the

degree of acceptable stress on the environment. Environmental standards and indicators are necessary management tools for providing early warning relating to potential environmental problems to carrying or assimilative capacities of environmental media and to habitat quality. Environmental indicators shall be defined, for example on land use conversion ratios (rural/urban, wetland/agriculture, forest/agriculture, etc) to make possible determination of ecosystems stability/resiliency/diversity relationships, and evaluation of economic development strategies affecting natural resources. Appropriate environmental indicators and standards shall be formulated and their implementation monitored to satisfy different objectives, including: -

- (a) to make accessible statistical, scientific and technical information to non-technical user groups;
- (b) descriptive indicators summarising sets of individual measurements pertaining to an issue, mainly to serve scientific purposes; and
- (c) aggregated, policy-oriented indicators, derived from analysis and integration of information of different disciplines to contribute to policy decision-making.

80. As part of strategy formulation, decisions shall be made on what components of the environment require the setting of indicators, and on the degree of the state of environmental reporting necessary. The role of scientific data in determining sustainable thresholds shall be promoted.

Precautionary Approach

81. On the ground that knowledge of the effects of environmental impacts may often be incomplete, and that some impacts only give demonstrable effects after a long time, application of a precautionary principle, ie. it is better to **be roughly right in**

time, than to be precisely right too late, shall be pursued. This means that in certain cases action may be taken to protect and enhance environmental integrity even without complete knowledge of the causes and effects involved, or without waiting for more substantial proof of damage.

International Cooperation

82. Environmental problems do not recognise national boundaries of sovereignty. Any policy on the environment is a policy only on the basis of effective forms of international cooperation which take into account both ecological relationships on regional and global scales, and the interdependence of the world economy. Virtually no part of the world can claim immunity from natural disasters and man-made abuses of the environment. Global and transboundary resources, especially the atmosphere, the ocean and shared ecosystems can be managed effectively only on the basis of a common purpose and resolve, when all affected countries are part of the solution.

83. Thus, for example Tanzania's coastal and marine pollution can be addressed more fully and effectively through regional cooperation. In many cases, some international framework is necessary to address transboundary environmental problems. Tanzania will intensify its cooperation with other countries of the subregion, region and the world at large.

84. The earth's atmosphere is not confined within national boundaries. The protection of the atmosphere must therefore be a global effort. International efforts at the protection of the atmosphere have so far consisted of the Vienna Convention on the Protection of the Ozone Layer and its Montreal Protocol and the United Nations Framework Convention on Climate Change which largely addresses the emissions of greenhouse gases in the atmosphere

which have an impact on climate change. Global, regional and national efforts should be made towards ratification and implementation of these Conventions.

85. The need to undertake climate studies in order to come up with mitigation options is stressed. In view of Tanzanian's vulnerability to climate variations, an assessment of impacts of climate change and climate variations will be undertaken. In this regard strategies will be evolved to ensure that options which are pursued do not unduly sacrifice national development endeavours.

CHAPTER FIVE

INSTITUTIONAL ARRANGEMENT

86. The multi-focus approach so central to environmental management and to the integration of environment and development concerns implies the need for effective coordination and cooperation among relevant organs of Government. It is imperative to recognise existing institutional mechanisms, and consider ways and means by which coordination of, and cooperation between institutionally distinct bodies with overlapping mandates might be enhanced, and their purpose and functions constructively aligned.

87. The cabinet constitutes the paramount permanent coordination and policy committee in which Ministries communicate their policy goals, plans and priorities.

MINISTRY RESPONSIBLE FOR ENVIRONMENT

88. The Ministry responsible for environment, as the authoritative voice and catalyst for action on behalf of the entire Government, shall exercise overall policy, planning and implementation oversight mandate on environmental matters. It shall be the source of overall policy guidance and advice on the development of strategic environmental vision, including formulation, analysis and appraisal of broad environmental policy, as well as formulation and review of broad environmental goals, in conformity with such vision. The Ministry shall provide the basis for a broad political legitimacy for the administration of strategic policy decisions on a routine and continuous basis for coordinated environmental management.

89. In order to achieve relevance and credibility as an environmental agenda-setter, the Ministry responsible for

Environment shall provide timely and substantive policy positions, representing a powerful collective voice for ensuring that Government's perspective on the environment is conveyed in a timely and compelling manner. Its strength shall lie primarily in providing leadership in environmental policy, environmental planning and coordination, and in influencing and facilitating action to protect and improve the environment. This means that the Ministry responsible for Environment shall stay at the cutting edge of environmental issues; providing information, advice and guidance; building consensus; identifying emerging issues; exploring unintended facets of known issues; and in setting the agenda for improved environmental management.

90. With this pre-eminent role, the Ministry responsible for environment, as the policy guidance institution, shall exercise oversight mandate for the implementation of policies under the jurisdiction of line ministries in fulfilment of their delegated authority, shall support and influence sector Ministries in carrying out their mandates, and shall assert due political influence on the strategic direction, sufficient to set their environmental agenda, for this objective. It shall be responsible for identifying and assessing strategic environmental concerns and key issues, inducing their resolution through a combination of mutually reinforcing actions by various institutions, and broadening consensus for the adoption of harmonised priorities.

91. The Division of Environment, as the working level cell of the Ministry responsible for Environment, shall provide policy and technical back-up, and execute the oversight mandate of the Ministry, as required. The Division shall undertake policy analysis; develop policy choices to influence decision-making; coordinate broad-based environmental programmes, plans and projects which go beyond single sector approaches; and facilitate meaningful

involvement of civil society to broaden consensus and reduce insularity. In order to achieve this objective the Division of Environment shall promote the use of inter-agency coordination processes under the auspices of the Ministry responsible for Environment, as well as under the auspices of relevant Government departments and other major actors for the primary purpose of sharing information and expertise, and ensuring that national policies and actions relating to the environment reflect the best scientific advice and broad social consensus.

92. In addressing environmental concerns, several issues are strongly linked; they can not be dealt with effectively, one by one. Solutions call for a combination of mutually reinforcing actions; and actions are required on many fronts by many actors. In order to implement environmental objectives in an even way, and to ensure systematic and consistent environmental administration, the Division of Environment shall develop basic management tools, such as guidelines and criteria for Environmental Impact Assessment; Environmental Standards; National Action Plans, Strategies and Programmes; etc. This will provide the means to address the scope and pursuit of national environmental agenda proactively and deliberately, and the opportunity to pay more attention to the integrated nature of the environment.

93. These strategic functions of the Ministry responsible for Environment form the basis for effective inter-ministerial cooperation and coordination, and shall be reflected in a framework Environmental legislation, and in relevant sectoral legislations.

LEAD MINISTRIES

94. Since environmental management is a multi-sectoral, multi-disciplinary undertaking, its success depends on the cooperation of Government agencies responsible for various aspects of

environment. The bulk of operational functions for environmental management such as public health, sewage disposal and water pollution control is carried out by Government departments of the relevant sector Ministries at the national, regional and local levels. The distribution of relevant Government responsibilities is typically based on subject matter; the legal and management systems of the Government are sectoral. Correspondingly, the existing parental authorities governing particular sectors have developed their own substantial technical infrastructure and expertise in their limitations of competence.

95. Therefore, sector Ministries represent the critical constituency of the Ministry responsible for Environment and must have an informed voice and commitment to environmental outcomes. Effective implementation of Government objectives on the environment will only be possible where Ministries with roles relevant to the environment are enjoined to coordinate their activities, and synchronise their rules and regulations in the service of a comprehensive environmental management.

96. Pockets of environmental activity found in each Ministry shall constitute the basis of more intensive, more effective environmental management. In order to implement Government objectives on environment in an even way, sector Ministries shall be endowed with the proper legislative tools appropriate to the kind of work that devolve upon them, with well-delineated sphere of supervisory powers.

ADVISORY BODIES

97. The formulation and implementation of environmental policy, environmental planning and coordination must be based upon a reliable information base, and continuous assessment of new information, as well as monitoring and assessment of the effectiveness of actions taken.

This requires substantial data and information for incorporation in policy-shaping, and for the development of effective management and technical solutions to environmental problems.

98. Environmental field research, and the development of data bases and monitoring systems represent a crucial factor for providing constant and timely feedback for decision-making, from long-term projections to rapid guidance in emergency situations.

99. Advisory bodies charged with the enhancement of targeted scientific research and information generation in the field of environment, and for monitoring and assessment of the effectiveness of actions taken shall be established and/or designated.

NATIONAL ENVIRONMENT MANAGEMENT COUNCIL (NEMC)

100. The National Environment Management Council shall retain its advisory role. It shall enforce pollution control and perform the technical arbitration role in the undertaking of Environmental Impact Assessment.

LOCAL AUTHORITIES

101. Local authorities represent the most powerful tier of Government. They provide the most accessible channels for people to express their concerns and take action to create sustainable conditions. Since so many of the environmental problems and solutions have their roots in local activities, Local authorities are a determining factor in fulfilling environmental policy objectives. Local authorities are responsible for constructing, operating and maintaining economic, social and environmental infrastructure.

102. Local authorities shall be responsible for overseeing planning processes, and for establishing local environmental policies

and regulations. At the level of governance closest to the people, local authorities are best placed to play the vital role of educating, mobilising and responding to their public to promote environmental objectives. Their role as environmental authorities in their areas of jurisdiction shall be enhanced.

COMMITTEES ON THE ENVIRONMENT

103. There shall be a Policy Committee on the Environment at the Regional level, composed of District Commissioners within the Region and chaired by the Regional Commissioner. This Committee shall deal with matters of regional interest affecting the environment; and shall provide policy guidance or propose policy measures and actions.

104. The work of the Regional Policy Committee on the Environment shall be facilitated by District, Ward and Village Committees on the Environment under the auspices of District, Ward and Village Councils, respectively. These Committees shall be responsible for coordinating and advising on obstacles to the implementation of environmental policy and programmes; promoting environmental awareness; information generation, assembly and dissemination on the environment relating to the district, ward or village.

INSTITUTIONAL CAPACITY-BUILDING

105. Greater institutional capacity is a prerequisite for the conception, planning and management of appropriate policy proposals, policy analysis and the formulation of strategic policy decisions. Likewise, the capacity to assess and articulate needs, form networks and create partnerships, and develop technical and management solutions in a field with diverse issues and interests as the environment, require substantial expertise.

106. Detailed knowledge of a local environment can not be imported at will. Management of any major component of the environment requires the capacity to analyse data and information, to generate policy options and design management measures based on the best data available, and apply and enforce them.

107. Both adequate facilities and trained personnel must be made available to realise these objectives. Building capacity for the development of general competence is inherently a lengthy process; it takes time to train an appropriate cadre of professionals, and even longer for them to acquire mature experience. More generally, human resource development will be a priority at all levels - the general public, NGOs, public officials, technical and scientific staff.

108. Particular attention will also need to be paid to the establishment and strengthening of institutions responsible for systematic monitoring of the state of the environment to cover for environmental information gaps. Presently, linkage of environmental degradation, loss of economic opportunity and deterioration of human health to causative factors is not made explicit on account of such information gaps. Although monitoring networks exist for meteorological measurements for temperature, rainfall, humidity and solar radiation, there are no regular measurements for more specific environmental planning purposes such as water pollution by industries and sewage discharge, or air pollution. Existing monitoring activities in the field of environment are project-oriented, with specific short-lived deadlines. This means that they are limited in spatial coverage, and are not regularly updated from time to time.

Environmental Management Act, 2004 (Excerpts)

PART VI
ENVIRONMENTAL IMPACT ASSESSMENT AND
OTHER ASSESSMENTS

Obliga-
tion to
undertake
Environme-
ntal impact
Assessment

81.-(1) Any person, being a proponent or a developer of a project or undertaking of a type specified in the Third Schedule to this Act, to which environmental impact assessment is required to be made by the law governing such project or undertaking or in the absence of such law, by the regulations by the Minister, shall undertake or cause to be undertaken, at his own cost, an environmental impact assessment study.

(2) An Environmental Impact Assessment study shall be carried prior to the commencement or financing of a project or undertaking.

(3) A permit or licence for the carrying out of any project or undertaking in accordance with any written law shall not entitle the proponent or developer to undertake or to cause to be undertaken a project or activity without an environmental impact assessment certificate issued under this Act.

(4) Any person who contravenes subsection (3), commits an offence.

Environme-
ntal Impact
Assessment
regula-
tions and
guidelines

82.-(1) Subject to subsection (2), the Minister shall make regulations and guidelines on how environmental impact assessment shall be conducted under this Act and under any other written law.

(2) Where the law requires environmental impact assessment to be done in respect of any project or undertaking and the manner in which such environmental impact assessment is to be done, then it shall not be necessary to apply standards stipulated in the regulations made under this Act unless the standard prescribed under such law does not meet minimum standards necessary for the conduct of such environmental impact assessment.

Environmental
Impact
Assessment to be
conducted
by experts

83.-(1) Notwithstanding the provisions of subsection (2) of section 82, environmental impact assessments shall be conducted by experts or firms of experts whose names and qualifications are registered as such by the Council.

(2) The Minister shall prescribe in the regulations qualifications of a person who may conduct Environmental Impact Assessment.

(3) The Council shall maintain a register of experts and firms of experts authorized to conduct Environmental Impact Assessment.

(4) The register of experts and firms of experts shall be maintained in a public registry and its entries may be searched by the public upon payment of a prescribed fee.

(5) A proponent of a project shall select experts amongst the persons possessing qualifications prescribed pursuant to the provisions of subsection (2), to conduct the Environmental Impact Assessment.

Issuance of
certificate
not a
defence
in legal
proceedings

84.-(1) The issuance of an Environmental Impact Assessment certificate in respect of any project shall not be a defence in any legal proceedings brought against a proponent of a project or undertaking in respect of the manner in which the project or undertaking is being executed, managed or operated.

(2) The Environmental Impact Assessment certificate may be transferred from one holder to another in the event the project changes ownership and not otherwise and only so upon notification in writing to the Minister within thirty days of the transfer.

Determination of the
scope of
Environmental Impact
Statement

85.-(1) Upon requiring an Environmental Impact Statement, the Council shall determine the scope of the Environmental Impact Statement by agreeing, with the proponent on:

- (a) the prescribed issues that must be addressed by the Environmental Impact Statement;
- (b) persons and institutions that must be consulted during the preparation of the Environmental Impact Statement;

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- (c) methodologies , and approaches in the collecting, collating and analyzing the required data, and
- (d) any other matter determining the scope of the Environmental Impact Statement.

(2) The Environmental impact Statements shall be kept and maintained by the Council in a public registry and their contents, may be searched upon payment of a prescribed fee.

Environment-
nal Impact
Statement

86.-(1) The Council shall upon examination of a project brief, require the proponent of a project or undertaking to carry out an Environmental Impact Assessment study and prepare an Environmental Impact Statement.

(2) The Environmental Impact Assessment statement prepared under subsection (1) shall be submitted to the Council for review.

(3) The Environmental Impact Assessment statement shall be prepared in accordance with regulations made by the Minister.

Review of
Environment-
nal Impact
Statement

87.-(1) The Council shall, within sixty, days following submission of Environmental Impact Statement carry out its review.

(2) The Council may, for purposes of carrying out reviews under subsection (1), set up a cross-sectoral technical advisory committee to advise it on reviews of Environmental Impact Assessment.

(3) The proponent shall comply with requests for additional, information necessary to enable the Council to complete the review and shall do so within the time specified in the request.

(4) The information requested by the Council for purposes of the Environmental impact Statement review may include but not limited to site and design maps, project documents, reports or materials, technical details, sectoral advice and any other matters it may deem necessary.

Inspection
of visit for
purpose of
Environment-
tal Impact
Assessment
review

88.-(1) The Council may, during the review process visit for purposes of inspection or verification any site or place associated with the proposed project or undertaking at the proponents, cost.

(2) The Environmental Impact Statement review process shall be based on the following criteria:

- (a) the balance between short and long term socio-economic benefits of the project and the detriment to the human and physical environment;
- (b) the nature of the project or undertaking and how it is likely to meet environmental standards;
- (c) the possible mitigation alternatives or other remedial measures;
- (d) comments received during public hearings and other consultative processes under this Part; and
- (e) any other review criteria as prescribed in the regulations.

Public
participatio-
n in
Environment-
tal Impact
Assessment

89.-(1) Without prejudice to, Part XIV, the Council shall adopt guidelines on public participation, especially those likely to be affected by the project being the subject of an Environmental Impact Assessment study or review.

(2) Without prejudice to subsection (1), upon receipt of the Environmental Impact Statement, the Council shall-

- (a) circulate it for written comments from various institutions and government agencies;
- (b) notify the public by any appropriate means of the place and time for reviewing the Environmental Impact Statement and submitting written comments in a prescribed manner; and
- (c) solicit oral or written comments by any appropriate means, of the people who will be affected.

Public
hearing and
information
disclosure

90.-(1) Notwithstanding the provisions of Section 87 of this Act and other provisions of this Act, the review of the Environmental Impact Statement shall be conducted, *inter alia*, through public hearings.

(2) The Council shall within thirty days of receipt of an

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Environmental Impact Statement decide whether or not to convene a public hearing for purposes of collecting submissions or comments on the proposed project or undertaking.

(3) Where the Council decides or is requested to convene a public hearing, it shall display and make available for inspection and copying all relevant reports, documents and written submissions made during and after the period of review until the public hearing is finalized.

Recommendation on Environmental Impact Statement by the Council

91. Upon completion of the review of the Environmental Impact Statement, the Council shall submit recommendations to the Minister.

Approval or disapproval of Environmental Impact Assessment by the Minister

92.-(1) The Minister may, within thirty days, upon receipt of recommendations of the Council:

(a) approve the Environmental Impact Statement and issue an Environmental Impact Assessment certificate; or

(b) disapprove the Environmental Impact Statement;

or

(c) approve an Environmental Impact Statement subject to such conditions as he may determine and issue an Environmental Impact Assessment Certificate.

(2) Where the Minister disapproves an Environmental Impact Statement, he shall:

(a) notify the proponent in writing stating reasons for disapproval; or

(b) recommend to the licencing authority that the activity should not be licenced.

Cancellation of licence upon disapproval of Environmental Impact Assessment

93. The Minister shall disapprove and recommend to the licensing authority that the project should not be licenced or, where the licence has been issued, be cancelled if-

(a) the project or undertaking is likely to cause significant adverse impact on the environment;

(b) there are no alternatives which can mitigate or remedy the significant likely harm to the environment;

- (c) the proponent has failed to abide to the mitigation measures stated in the Environmental Impact Statement or conditions issued by the Minister; or
- (d) there are compelling social, economic, health, cultural, or religious reasons which may or are likely to lead to irreversible impact on the society.

Delegation of powers to approve Environmental Impact Assessment

94. The Minister may, by an instrument published in the *Gazette*, delegate power of approval of Environmental Impact Statement to the Director of Environment, local government authorities or sector Ministries.

Appeal against decision of the Minister on Environmental Impact Assessment

95. Any person who is aggrieved by the decision of the Minister to approve or disapprove an Environmental Impact Statement may appeal to the Environmental Appeals Tribunal.

Maintenance of records of decisions on Environmental Impact Assessment

96.-(1) The Director General shall, maintain records of decisions on approvals or disapprovals of Environmental Impact Statement.

(2) The record referred under subsection (1) shall be kept in a public registry and be accessible to the public upon payment of a prescribed fee.

Requirement of fresh Environmental Impact Assessment study after issuance of Environmental Impact Assessment Certificate

97. The Council may, at any time after the issuance of an environmental impact assessment certificate, require the holder of such certificate to conduct a fresh Environmental Impact Assessment study at his own cost and submit an Environmental Impact Statement within such time as the Council may prescribe if:

- (a) there is substantial change or modification in the project or undertaking or in the manner in which the project is being operated;
- (b) the project or undertaking poses environmental threats which could not be reasonably foreseen at the time of the study or review; or

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- (c) in due course it is established that the information or data given by the proponent or undertaking in previous Environmental Impact Assessment process was inaccurate, false or intended to mislead the Council.

Offence for failure to comply with directions of the Council in relation to Environmental Impact Assessment

98. Any person who fails or neglects to comply with the directions of the Council issued under section 97 commits an offence.

Environmental monitoring

99.-(1) The Council shall, in consultation with the relevant sector Ministry or government agency, monitor-

- (a) all environmental criteria and phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts; and
- (b) the operation of any project or undertaking with a view to determining its immediate and long term effects on the environment.

(2) An environmental inspector or any other authorized officer may, upon giving due notice, enter upon any land or premises for the purposes of monitoring the effects upon the environment of any activities carried out on that land or premises.

Monitoring compliance with Environmental Impact Statement

100.-(1) Where the results of monitoring indicate non-compliance with the Environmental Impact Assessment, the holder of the Environmental Impact Assessment certificate may be required:

- (a) to take a reasonable measures to mitigate the impact of such non compliance and report such measures to the Council; or

(b) to pay a fine imposed by way of administrative measure by the Council for such non compliance.

(2) The Council may recommend to the Minister for revocation of an Environmental Impact Assessment certificate if the results of an additional monitoring indicate persistent non-compliance with the conditions stipulated in the Environmental Impact Statement certificate and the Council may institute proceedings in a court of law for damages for any injury that may have occurred as a result of such non-compliance.

Environmental audit and duty to mitigate impact on the environment

101.-(1) The Council shall be responsible for carrying, environmental audit in respect of any project or undertaking that is likely to have significant impact on the environment.

(2) An environmental inspector or any other authorized officer may, upon giving due notice, enter into any land or premises for purposes of determining how far the activities carried out on that land or premises conform with the Environmental Impact Statement.

(3) Notwithstanding subsections (1) and (2) the proponent or operator of a project or undertaking for which an Environmental Impact Statement has been made shall keep accurate records and make annual reports to the Council describing how far the project conforms in operation with the statements made in the Environmental Impact Statement.

(4) The proponent or the operator of a project or undertaking shall take all reasonable measures to mitigate any undesirable effects not previously anticipated in the Environmental Impact Statement and shall prepare, for submission to the Council a comprehensive report of those measures, on an annual basis or as the Council may in writing, direct.

Undertaking of Safe decommissioning and site rehabilitation

102.-(1) Upon expiry of a project or undertaking stipulated under the Second Schedule to this Act, the proponent or operator shall, at his own cost undertake safe decommissioning, site rehabilitation and ecosystem restoration before the closure of the project or undertaking.

(2) The Council shall not discharge an environmental performance bond deposited under section 227 of this Act until the holder fulfils the conditions stipulated under subsection (1).

Other
assess-
ments

103. Notwithstanding the preceding provisions of this Part, the Minister may require any person whose activities are likely to have an impact on the environment to make a statement on the social, health, biotechnological or any other risk impact assessment he may determine.

PART VII
STRATEGIC ENVIRONMENTAL ASSESSMENT

Strategic
environmen-
tal
assessment
of Bills,
regulations,
policies,
strategies,
program-
mes and
plans

104.-(1) It shall be a requirement when preparing a Bill for enactment of any law that is likely to have effect on -

- (a) the management, conservation and enhancement of the environment; or
 - (b) sustainable management of natural resources,
- to conduct and submit to the Minister a detailed statement regarding strategic environmental assessment of the effect likely to be caused on the environment in the implementation of the provisions of that law.

(2) Without prejudice to subsection (1), when promulgating regulations, Public Policies, programmes and development plans shall include a strategic environmental assessment statement on the likely effects of such regulations, public policies, programmes or development plans may have on the environment.

(3) Every strategic environmental assessment statement made under this section shall include -

- (a) a full description of the policy Bill, legislation, strategy, programme, plan and the objectives it intends to achieve;
- (b) an identification, description and assessment of the positive and adverse effects that implementation of the proposed strategy, programme, plan or legislation is likely to have on the environment add to the sustainable management of natural resources;
- (c) an identification, description and assessment of likely effects of alternative means to achieve the objectives of the policy, Bill, legislation, strategy, programme and plan;

- (d) an identification, description and assessment of a range of practicable measures that could be taken to avoid, mitigate or remedy any adverse effect that may occur as a result of the implementation of the policy, Bill, legislation, strategy, programme, or plan; and
- (e) any other information that the Minister may by regulations prescribe.

(4) Where a person responsible for the Bill, regulation, public policy, strategy, programme, or plan, does not require a strategic environmental assessment under this section, he shall submit a draft of the relevant document to the Minister who shall, as soon as practicable, determine whether or not an assessment is required and shall furnish his decision and the reasons for it.

(5) Upon receipt of the strategic environmental assessment report, the Minister shall direct the Director of Environment to review the policy, Bill, legislation, strategy, programme or plan strategy and furnish his opinion to the Minister who shall thereafter give his opinion to the person concerned.

(6) A person to whom the Minister has given opinion shall be required to comply with recommendations made and shall be required to submit a fresh report to him indicating:

- (a) the revisions that have been made to the original document in order to promote environmental management and the sustainable management of natural resources or to avoid mitigate or remedy any adverse effects which implementation of the original legislation, policy, programme or plan, may have had;
- (b) any other measures that have to be taken to avoid, mitigate or remedy any adverse effects on the environment and when these were or will be taken, and if any measures recommended by the assessment report have or will not be taken, the reasons for not doing so; and
- (c) a revised version of the policy, Bill, legislation, strategy, programme or plan.

(7) Where the Minister is of the opinion that the environmental concerns raised during the strategic environmental assessment process are not adequately addressed by the revised Bill,

regulation, policy, strategy, programme or plan, and that additional cost-effective measures to avoid or mitigate against these adverse effects should be taken, he shall within thirty days of receipt of the documents referred to in subsection (5), lodge an objection with the person concerned with a view to reaching agreement on the amendments to be made to the revised policy, Bill, legislation, strategy, programme or plan in order to give effect to the purpose and principles of this Act.

(8) Where, upon direction by the Minister, the Director of Environment and the person concerned are unable to reach agreement on the amendments to be made to the revised policy, Bill, legislation, strategy, programme or plan on the measures to be taken, the Director of Environment or the person concerned may lodge a notice of objection to the Minister.

(9) The Minister may, upon receipt of the notice of objection, order the documents referred to in subsection (6) to be subjected to public review or to a public hearing before making a final determination.

Strategic environmental assessment for mineral, petroleum, hydro-electric power and major water project plans

105.- (1) Where a mineral or petroleum resource is identified and before specific details are planned or a hydro-electric power station is planned or a major water project is planned, the Ministry responsible for mining, energy or water shall carry out a Strategic Environmental Assessment.

(2) The strategic environmental assessment provided for Under sub-section (1), shall assess the area marked for development including the following:

- (a) baseline environmental conditions and status of natural resources;
- (b) identification of ecologically sensitive and protected areas;
- (c) identification and description of communities around the area;
- (d) existing socio-economic conditions;
- (e) existing economic activities and infrastructure;

- (f) proposed developments, including longer-term scenarios and the cumulative development of a number of different mine or oil and gas site or hydro-electric power stations;
- (g) infrastructure and resources required to service these development;
- (h) potential environmental and social impacts of mining or petroleum development or hydro-electric power or any major water projects; and
- (i) recommendations for land reclamation and limitations on development in different areas.

(3) The Minister shall direct the Director of Environment to review the strategic environmental assessment statement and prepare a report on adequacy or inadequacy of the statement and areas which need to be improved and make recommendations to the Minister accordingly.

(4) The Director of Environment shall submit a review report to the Minister for approval.

(5) On receipt of recommendations, the Minister shall approve the report and make recommendations to the Ministry responsible for mining, energy or water regarding the best way environment can be preserved within the context of the project that is to be undertaken.

(6) The Ministry responsible for mining, energy or water project shall be required to comply with recommendations made by the Minister.

PART VIII POLLUTION PREVENTION AND CONTROL

General
prohibition
of pollution

106.-(1) It shall be an offence for any person to pollute or permit any other person to pollute the environment in violation of any standards, prescribed under this Act or any other written law regulation a segment of the environment.

(2) In determining whether or not to issue a licence, permit or other authorization to discharge contaminant, and the terms and conditions of the licence, permit, or authorization the Council or any other person empowered to make the decision shall seek to ensure that the prescribed best practicable option is adopted.

**Environmental Impact Assessment and Audit
Regulations, 2005**

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
(Act No. 20 of 2004)

REGULATIONS

(Made Under Sections 82(1) and 230(2) (h) and (q))

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THE ENVIRONMENTAL MANAGEMENT ACT, 2004
(Act No. 20 of 2004)

(Made Under Sections 82(i) and 230(2)(h))

THE ENVIRONMENTAL IMPACT ASSESSMENT AND AUDIT
REGULATIONS, 2005

PART I
PRELIMINARY PROVISIONS

Citation	1. These Regulations may be cited as the Environmental Impact Assessment and Audit Regulations, 2005.
Application	2. These Regulations shall apply to all projects, undertakings and activities referred to in Part VI and the Third Schedule to the Act and, the First Schedule to these Regulations.
Interpretation Act No. 20 of 2004	3. In these Regulations, unless the context otherwise requires- “Act” means the Environmental Management Act, 2004; “analysis” means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of the environment or examination of emissions or recording of noise or sub-sonic vibrations to determine the level or other characteristics of the noise or sub-sonic vibration or its effect on any segment of the environment; “analyst” means an analyst appointed or designated under section 163 of the Act; “biological diversity” means the variability among living organisms from all sources including terrestrial ecosystems, aquatic ecosystems and the ecological complexes of which they are part including diversity within species and of ecosystems; “chemical” means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature and includes industrial chemicals, pesticides, fertilizers and drugs; “Council” means the National Environment Management Council established under section 16 of the Act; “developer” means a person who is developing a project to which an environmental impact assessment is required by the Act; “Director General” means the Director General of the Council appointed pursuant to section 21 of the Act; “economic analysis” means the use of analytical methods which take into account economic, socio-cultural, and environmental issues in an integrated manner in the assessment of projects; “environmental audit” means a systematic evaluation of activities and processes of a project to determine how far these activities and programmes conform with the approved environmental management plan of that specific project and sound environmental management practices and applicable environmental standards; “environmental auditor” means an individual person or a firm of experts certified

- and registered as Environmental Expert in accordance with the provisions of the Environmental (Registration of Environmental Experts) Regulations, 2005;
- “environmental control audit ” means a mechanism or procedure put in place by a proponent or proprietor in consultation with the Council to determine compliance with environmental standards;
- “environmental expert” means an individual person or firm of consultants duly certified and registered under the Environmental (Registration of Environmental Experts) Regulations, 2005 to conduct environmental impact assessment study or environmental audit;
- “environmental impact assessment” means a systematic examination conducted to determine whether or not a programme, activity or project will have any adverse impacts on the environment;
- “environmental impact statement” means the statement produced at the end of the environmental impact assessment process in accordance with the requirements of section 86 of the Act and Part IV of these Regulations;
- “environmental management plan” means all details of project activities, impacts, mitigation measures, time schedule, costs, responsibilities and commitments proposed to minimize environmental impacts of activities, including monitoring and environmental audits during implementation and decommissioning phases of a project;
- “environmental management” includes the protection, conservation and sustainable use of the various elements or components of the environment;
- “environmental monitoring” means the continuous or periodic determination of actual and potential effects of any activity or phenomenon of the environment whether short-term or long-term;
- “guidelines” means the guidelines describing the methodology for implementation of environmental impact assessment or environmental audit requirements adopted by the Council pursuant to section 58 of the Act;
- “mitigation measures” include engineering works, technological improvements, management and ways and means of minimising negative aspects, which may include socio-economic and cultural losses suffered by communities and individuals, whilst enhancing positive aspects of the project;
- “natural resources” include resources of air, land, water, animals and plants including their aesthetic qualities;
- “premises” include mesuages, buildings, lands and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises;
- “project” includes any project, programme or policy that leads to activities which may have an impact on the environment;
- “proprietary information” means information relating to any manufacturing process, trade secret, trade mark, copyright, patent or formula protected by law in Mainland Tanzania or by any international treaty to which the United Republic is party;
- “proponent” means a person proposing or executing a project, programme or an undertaking specified in the Third Schedule of the Act;
- “public” means individual, civil society organisations and institutions, community based organisations, public and private institutions;

- “review” means a process of checking the adequacy of an environmental impact statement or environmental audit report with a view to ensuring that it meets the legal requirement and ensure wide acceptance of the environmental impact study findings;
- “social analysis” means assessing or estimating in advance the social consequences from specific policy actions or project development including social justice and equity, social uncertainty, social cohesion, social networks and interactions, social status and gender desegregation;
- “standard” means the limits of discharge or emissions established under the Act or under these Regulations made pursuant to the Act or any other in the law;
- “sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystems;
- “sustainable use” means present use of the environment or natural resources, which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;
- “trade” means any trade, business or undertaking whether originally carried on at a fixed premises or at varying places which may result in the discharge of substances and energy and includes and activity prescribed to be a trade, business or undertaking for the purposes of this Act;
- “Tribunal” means the Environmental Appeals Tribunal established by section 204 of the Act;
- “waste” means any matter prescribed to waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume composition or manner likely to cause an alteration of the environment;
- “water” includes drinking water, river, stream, watercourse, reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water.

PART II GENERAL PROHIBITION

General
prohibition

- 4.-(1)** No developer or proponent shall implement a project-
- (a) likely to have a negative environmental impact; or
 - (b) for which an environmental impact assessment is required under the Act, these Regulations or any other written law unless an environmental impact assessment has been concluded and approved in accordance with these Regulations.
- (2) No licensing authority under any law in force in Mainland Tanzania shall issue a certificate for any project for which an environmental impact assessment is required under the Act unless the applicant produces to the licensing authority a certificate of environmental impact assessment issued by the Minister under these Regulations.
- (3) No licensing authority under any law in force in Mainland Tanzania shall issue a trading, commercial or development permit or license for any micro project activity set out in the First Schedule to these Regulations that is likely to

have cumulative significant negative environmental impact before it ensures that an impact assessment approved by the Minister is in place.

PART III PROJECT REGISTRATION AND SCREENING

Application for
Environmental
Impact
Assessment
Certificate

5. An application for an environmental impact assessment certificate shall be made in the format of a project brief set out in the Third Schedule to the Act and the First Schedule to these Regulations, and the applicant shall submit the application together with the prescribed fee to the Council.

Preparation of
project brief

6. -(1) A developer or proponent shall, depending on the nature of the project or undertaking, register in accordance with Form No. 1 specified in the Third Schedule to these Regulations and prepare a project brief stating-

- (a) the nature of the project in accordance with the categories identified in the Third Schedule to the Act and the First Schedule to these Regulations;
- (b) the location of the project including to the physical area that may be affected by the project's activities;
- (c) the activities that shall be undertaken during the project construction, operation and decommissioning phases;
- (d) the design of the project;
- (e) the materials to be used, products and by-products, including waste to be generated by the project and the methods of their disposal;
- (f) the potential environmental impacts of the project and the mitigation measures to be taken during and after implementation of the project;
- (g) an action plan for the prevention and management of possible accidents during the project cycle;
- (h) a plan to ensure the health and safety of the workers and neighbouring communities;
- (i) the economic and socio-cultural impacts to the local community and the nation in general;
- (j) the project budget; and
- (k) any other information which the Council may require.

(2) In preparing a project brief under this Regulation, the proponent or developer shall pay particular attention to other issues specified in the First Schedule to these Regulations.

(3) A project brief shall be prepared by an environmental impact assessment expert registered as such under regulations made under the Act.

Submission of
project brief

7. A proponent or developer shall submit at least ten copies of the project report to the Council or the Council's appointed agent in Form No. 1 specified in the Third Schedule to these regulations accompanied by the prescribed fees.

Comments on the project brief	<p>8.-(1) Where the project brief conforms to the requirements of regulation 6, the Council shall within seven days upon receipt of the project report, submit a copy of the project brief to-</p> <ul style="list-style-type: none"> (a) each of the relevant ministry or public institution; (b) the relevant local government environmental management officer; and (c) where more than one district is involved, to the relevant Regional Secretariat, for their written comments. <p>(2) Comments shall be submitted to the Council within twenty one days from the date of receipt of the project brief.</p> <p>(3) On receipt of the comments or where no comments have been received the Council shall proceed to determine the project brief.</p>
Screening of project brief	<p>9.-(1) The Council shall screen the project brief guided by screening criteria as specified in the Second Schedule to these Regulations.</p> <p>(2) The screening process shall be undertaken with the objective of determining whether an environmental impact assessment be undertaken.</p>
Approval of project brief	<p>10.-(1) On determination of the project brief, the decision of the Council, together with the reasons thereof, shall be communicated to the developer or proponent within forty-five days of the submission of the project brief.</p> <p>(2) Where the Council is satisfied that the project shall not have significant negative impact on the environment, or that the project brief discloses sufficient mitigation measures, the Council may proceed to recommend to the Minister to approve the project.</p> <p>(3) Approval of the project or undertaking shall be made in Form 3 specified in the Third Schedule to these Regulations.</p>
Decision that an environmental impact statement be prepared	<p>11.-(1) Where the Council finds that the project shall have a significant impact on the environment and the project report discloses no sufficient mitigation measures it shall require the developer or proponent to:</p> <ul style="list-style-type: none"> (a) undertake an environmental impact assessment in accordance with these Regulation; or (b) undertake a preliminary assessment, where more information is required to determine a screening decision. <p>(2) A preliminary assessment shall proceed along the following steps:</p> <ul style="list-style-type: none"> (a) description of the project characteristics and the affected environment; (b) identification of impacts on the local environment; and (c) assessment or evaluation of the significance of the impacts in terms of energy flow, transformation of matter, effects on sensitive ecosystems relative to the baseline state and socio-economic impacts. <p>(3) Where the Council finds that the project shall have no significant negative impact on the environment and the project report discloses sufficient mitigation measure, it shall not require the developer or proponent to undertake an environmental impact assessment, and may proceed to recommend to the Minister for approval of the project.</p>

PART IV
THE ENVIRONMENTAL IMPACT ASSESSEMENT

Objectives of Environmental Impact Assessment

- 12.** The objective of any environmental impact assessment shall be to-
- (a) establish before a decision is taken by any person, authority, corporate body or unincorporated body including the Government and local government authorities intending to undertake or authorise the undertaking of any activity impacts that may likely or to a significant extent affect the environment or have environmental effects on those activities;
 - (b) promote the implementation of the Act and all laws and decision making process through which the goal and objective in paragraph (a) may be realised;
 - (c) encourage the development of procedure for information exchange, notification and consultation between organs and persons when a proposed activity is likely to have significant environmental effects on transboundary or an environment bordering regions, districts, municipalities, towns and villages;
 - (d) to ensure that environmental considerations are explicitly addressed and incorporated into the development decision making process;
 - (e) to anticipate and avoid, minimize or offset the adverse significant biophysical, social and other relevant effects of development proposal;
 - (f) to protect the productivity and capacity of natural systems and the ecological processes which maintain their functions; and
 - (g) to promote development that is sustainable and optimises resources use and management opportunities.

Scoping terms and reference

13.(1) An environmental impact assessment shall be conducted in accordance with scoping and the terms of reference developed during the scoping exercise by the developer or proponent.

(2) The terms of reference shall be submitted to the Council for approval which should be made within fourteen days of submission failure of which approval shall be assumed.

(4) The scoping report shall contain among other things the following components:

- (a) how the scoping exercise was undertaken;
- (b) identification of issues and problem;
- (c) synthesis of results of the scoping exercise including details of potential negative and positive impacts;
- (d) stakeholder groups identified and how they were involved in the scoping exercise;
- (e) spatial, temporal and institutional boundaries of the project;
- (f) project alternatives; and
- (g) terms of reference.

Conduct of EIA by experts

14. The environmental impact assessment shall be conducted by experts or firms of experts whose names have been duly certified and registered in

accordance with the provisions of the Environmental (Registration of Environmental Experts) Regulations, 2005.

Environmental
impact
assessment steps

15. An environmental impact assessment shall be conducted in accordance with the general environmental impact assessment guidelines and steps set out in the Fourth Schedule to these Regulations.

Environmental
impact
assessment study

16. An environmental impact assessment shall take into account environmental, social, cultural, economic, and legal considerations, and shall-

- (a) identify the anticipated environmental impacts of the project and the scale of the impacts;
- (b) identify and analyse alternatives to the proposed project;
- (c) propose mitigation measures to be taken during and after the implementation of the project; and
- (d) develop an environmental management plan with mechanisms for monitoring and evaluating the compliance and environmental performance which shall include the cost of mitigation measures and the time frame of implementing the measures.

Public
participation

17.-(1) During the process of conducting an environmental impact assessment study, the developer or proponent shall in consultation with the Council, seek the views of any person who is or is likely to be affected by the project.

(2) In seeking the views of the public following the approval of the project brief, the developer or proponent shall-

- (a) publicize the project and its anticipated effects and benefits by-
 - (i) posting posters in strategic public places in the vicinity of the site of the proposed project informing the affected parties and communities of the proposed project;
 - (ii) publishing a notice on the proposed project for two successive weeks in a newspaper that has a nationwide circulation; and
 - (iii) making an announcement of the notice in both Kiswahili and English languages in a radio with a nationwide coverage for at least once a week for two consecutive weeks;
- (b) hold, where appropriate, public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments;
- (c) ensure that appropriate notices are sent out at least one week prior to the meetings and that the venue and times of the meetings are convenient for the affected communities and the other concerned parties; and
- (d) ensure, in consultation with the Council, that a suitably qualified co-ordinator is appointed to receive and record both oral and written comments and any translations of it as received during the public meetings for onward transmission to the Council.

(3) Without prejudice to the preceding provisions of this Regulation, the Council may issue notice to the members of the public to participate in all steps of conducting an environmental impact assessment.

(4) After closing the public hearing, the Council shall ensure that both oral and written comments and, minutes of the meeting are attached as an annex to the environmental impact statement.

PART V
THE ENVIRONMENTAL IMPACT STATEMENT

Contents of
environmental
impact statement

18.-(1) A developer or proponent shall submit to the Council, an environmental impact statement incorporating but not limited to the following information-

- (a) the project and the activities that it is likely to generate;
- (b) the proposed location of the project and reasons for rejecting alternative locations;
- (c) a concise description of the national environmental legislative and regulatory framework, baseline information, and any other relevant information related to the project;
- (d) the objectives of the project;
- (e) the technology, procedures and processes to be used, in the implementation of the project;
- (f) the materials to be used in the construction and implementation of the project;
- (g) the products, by products and waste generated by the project;
- (h) a description of the potentially affected environment including specific information necessary for identifying and assessing the environmental effects of the project;
- (i) the environmental effects of the project including the social and cultural effects and the direct, indirect, cumulative, irreversible, short term and long term effects anticipated;
- (j) alternative technologies and processes available and reasons for preferring the chosen technology and processes;
- (k) analysis of alternatives including project site, design and technologies and reasons for preferring the proposed site, design and technologies;
- (l) an environmental management plan proposing the measures for eliminating, minimizing or mitigating adverse impacts on the environment; including the cost, timeframe and responsibility to implement the measures;
- (m) provision of an action plan for the prevention and management of foreseeable accidents and hazardous activities in the cause of carrying out activities or major industrial and other development projects;
- (n) the measures to prevent health hazards and to ensure security in the working environment for the employees and for management of emergencies;
- (o) an identification of gaps in knowledge and uncertainties which were encountered in compiling the information;
- (p) an economic and social analysis of the project;
- (q) positive impacts and how to enhance them; and
- (r) such matters as the Council may require.

(2) Without prejudice to the generality of sub-regulation (1), the environmental impact statement shall closely be styled and contain the following information:

- (a) Format of the environmental impact statement:
 - (i) executive summary;
 - (ii) acknowledgement;
 - (iii) acronyms;
 - (iv) introduction;
 - (v) project background and description;
 - (vi) policy, administrative and legal framework;
 - (vii) baseline or existing conditions;
 - (viii) assessment of impacts and identification of alternatives;
 - (ix) impacts management or environmental mitigation measures;
 - (x) environmental and social management plan;
 - (xi) environmental and social monitoring plan;
 - (xii) resource evaluation or cost benefit analysis;
 - (xiii) decommissioning;
 - (xiv) summary and conclusions
 - (xv) references;
 - (xvi) appendices;

- (b) Cover page of the environmental impact statement:
 - (i) title of the proposed project;
 - (ii) location of proposed development;
 - (iii) developer;
 - (iv) lead consultants;
 - (vi) contact address and phone;
 - (vii) date of submission.

- (3) Executive summary shall contain the following:
 - (a) title and location of the project or undertaking;
 - (b) name of the proponent and contact;
 - (c) names and addresses of experts or firms of experts conducting EIA;
 - (d) A brief outline and justification of the proposed project or undertaking showing-
 - (i) a brief description of the project environment;
 - (ii) project stakeholders and their involvement in the EIA process;
 - (iii) explanation on why some impacts are not addressed;
 - (iv) list of developer, consultant, local planning authorities and other people and organisations consulted;
 - (v) results of public consultation;
 - (vi) description of the major significant impacts;
 - (vii) alternative considered;
 - (viii) recommendations and plan for mitigation of the impacts;
 - (ix) environmental and social management;
 - (x) proposed monitoring and auditing;
 - (xi) resource evaluation or cost benefit analysis; and
 - (xii) decommissioning.

- Executive summary of environmental impact statement
- 19.**-(1) In making an environmental impact statement, the developer or proponent shall have regard to the issues stipulated in the terms of reference.
- (2) An environmental impact statement shall be accompanied by a non-technical executive summary both in Kiswahili and English languages stating the key findings, conclusions and recommendations of the assessment.
- Signature
- 20.**-(1) The environmental impact statement shall be signed by each of the individual persons making the assessment.
- Submission of environmental impact statement
- 21.** A developer or proponent shall submit fifteen original copies and an electronic copy of an environmental impact statement to the Council in Form No. 2 specified in the Third Schedule to these Regulations accompanied by the prescribed fees.

PART VI REVIEW PROCESS OF ENVIRONMENTAL IMPACT STATEMENT

- Cross-sectoral technical advisory committee
- 22.**-(1) The Council may set up cross-sectoral technical advisory committees at national level and, where appropriate at a local government authority level to advise it on reviews of environmental impact assessment related reports.
- (2) The cross-sectoral technical advisory committee shall consist of not less than twelve specialists constituting a multi-disciplinary specialisation.
- (3) The terms of reference and rules of procedure of a cross-sectoral technical advisory committee shall be drawn by the Council in accordance with sections 87 and 88 of the Act.
- (4) The cross-sectoral technical advisory committee may, with the approval of the Director General, co-opt any persons it deems necessary for its proper functioning.
- (5) The quorum for the meeting of the cross-sectoral technical advisory committee shall be two-thirds of members.
- Invitation of comments from relevant Ministries, institutions and the general public
- 23.**-(1) The Council shall within fourteen days of the receipt of the environmental impact statement submit a copy to any relevant Ministry and public institution and, shall notify and invite the general public for comment.
- (2) Upon receiving the environmental impact statement, the Ministry and public institution shall review the report to ensure that it complies with the terms of reference developed pursuant to regulation 13 and that it is comprehensive and send the comments to the Council within thirty days or such extended period as the Council may specify.
- (3) Where the relevant Ministry and public institution to which a copy of the environmental impact statement is submitted fails to submit comments within thirty days or such extended period as the Council may specify, the Council may proceed with the determination of the application for the implementation of the project or undertaking.

Review criteria	<p>24. The Council shall undertake review of an environmental impact statement in accordance with the following criteria:</p> <ul style="list-style-type: none"> (a) Review Area 1 Description of the Development Local Environment and Baseline conditions: <ul style="list-style-type: none"> (i) description of the development; and (ii) local environmental and baseline conditions. (b) Review Area 2 Identification and Evaluation of key impacts: <ul style="list-style-type: none"> (i) identification and evaluation of key impacts; (ii) residual impacts; (iii) cumulative impacts; (iv) prediction of impact magnitude; and (v) assessment of impact significance. (c) Review Area 3 Alternatives, mitigations, EMP, and commitment: <ul style="list-style-type: none"> (i) alternatives; (ii) mitigations; (iii) Environmental Management Plan; and (iv) commitment. (d) Review Area 4 Stakeholder participation and communication of results: <ul style="list-style-type: none"> (i) stakeholder participation; (ii) presentation; (iii) balance; and (iv) non-technical summary.
On site visits	<p>25. The Council may arrange for on-site visits with the developer or proponent for purposes of inspecting the project or undertaking which is the subject of review.</p>
Decision to hold public hearing	<p>26.-(1) The Council shall consider an environmental impact statement and all the comments received and shall proceed to determine whether to hold or not to hold a public hearing in accordance with regulation 27.</p> <p>(2) The Council shall hold a public hearing on the environmental statement if-</p> <ul style="list-style-type: none"> (a) as a result of the comments received it is of the opinion that a public hearing shall enable it to make a fair and just decision; or (b) it considers it necessary for the protection of the environment. <p>(3) During the hearing, the Council shall:</p> <ul style="list-style-type: none"> (a) receive submissions and comments from any interested party; (b) ask questions and seek answers respecting the environmental impact of a project or an undertaking; and (c) provide information which assist the hearing panel to prepare recommendations to the Minister.
Public hearing	<p>27.-(1) Upon receipt of both oral and written comments as specified by sections 89 and 90 of the Act, the Council may conduct a public hearing.</p>

(2) The public hearing shall be presided over by a suitably qualified person appointed by the Council.

(3) The date and venue of the public hearing shall be publicized at least one week prior to the meeting-

(a) by notice in at least one daily newspaper of national circulation and one newspaper of local circulation, television and other means of mass communication;

(b) by at least two announcements in the Kiswahili and English languages.

(4) The public hearing shall be conducted at a venue convenient and accessible to people who are likely to be affected by the project.

(5) A proponent shall be given an opportunity to make a presentation and to respond to presentations made at the public hearing.

(6) The presiding officer shall, in consultation with the Council determine the rules of procedure at the public hearing.

(7) On the conclusion of the public hearing, the presiding officer shall compile a report of the views presented at the public hearing and submit the report to the Director General within fourteen days from the date of completion of the public hearing.

General format of public hearings

28.-(1) All public hearings shall be non-judicial and conducted in an informal and in a non-adversarial format.

(2) All public hearing shall not follow the strict rules of law, procedure and evidence required by a court of law.

(3) All public hearings shall be conducted in a structured manner so as to permit a fair and full examination of all information presented.

Persons eligible to make presentations at public hearings

29. Any person may attend either in person or through a representative and make presentations at a public hearing provided that the presiding officer shall have the right to disallow frivolous and vexatious presentations.

Submission of recommendations to the Minister

30. Upon completion of the review process, the Council shall prepare a report on the review of environmental impact statement and submit it to the Minister in accordance with section 91 of the Act.

PART VII DECISION OF THE MINISTER

Decision of the Minister

31.-(1) The Minister shall give his decision on an environmental impact statement within thirty days of receiving recommendations of the Council.

(2) The decision of the Minister shall be made in writing and shall contain the reasons for the decision.

Criteria for decision

32.-(1) In making a decision regarding an environmental impact statement the Minister shall take into account-

(a) the validity of the environmental impact assessment statement with emphasis on the environmental, economic, social and

- (b) cultural impacts of the project;
- (b) the comments made by relevant Ministry, institution and other interested parties;
- (c) the report of the person presiding at a public hearing, where applicable;
- (d) other factors which the Council may consider relevant in the implementation of the project; and
- (e) advice of the Director of Environment in such application.

(2) The decision of the Minister under these regulations shall be communicated to the developer or proponent and a copy thereof shall be made available for inspection by the general public at the Council's office.

Decision of Minister and issue of decision letter

33.-(1) The Minister shall take into account the review process and make a decision stating that-

- (a) the Environmental Impact Statement is approved;
- (b) the Environmental Impact Statement is not approved; or
- (c) the Environmental Impact Statement is approved subject to the developer meeting specified conditions.

(2) Where the Minister has not approved or approved the project subject to certain conditions, he shall, in communication the decision to the developer or proponent-

- (a) provide reasons for his decision; or
- (b) specify conditions attached on the approval based on the environmental management plan provided in the environmental impact assessment statement including schedule of activities that governs implementation of activities.

Environmental impact assessment certificate

34. Where the Minister approves an environmental impact statement he shall issue an environmental impact assessment certificate in Form 3 specified in the Third Schedule to these Regulations.

Variation of certificate

35.-(1) Where circumstances arise which compels or requires a developer or proponent to vary the terms and conditions on which an environmental impact assessment certificate has been issued, the holder of the certificate shall apply for a variation in accordance with the format in Form 5 specified in the Third Schedule to these Regulations accompanied by a prescribed fee.

(2) The Minister may issue a certificate of variation of an environmental impact assessment certificate in Form No. 6 set out in the Third Schedule to these Regulations.

(3) A variation of an environmental impact certificate issued under these Regulation may be issued without the holder of the certificate submitting a fresh environmental impact statement if the Council is satisfied that the project if varied would comply with the requirements of the original certificate.

(4) Where an environmental impact assessment is required for variation of the environmental impact assessment certificate the provisions of Part IV of these Regulations shall apply.

Transfer
certificate

of

36.-(1) The holder of an environmental impact assessment certificate may, on payment of the prescribed fee, transfer the certificate to another person only in respect of the project to which such certificate was issued.

(2) The transferee as well as the transferor of an environmental impact assessment certificate shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the certificate transferred, but the transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the environmental impact assessment certificate that was issued.

(3) Where an environmental impact assessment certificate is to be transferred, the person to whom it is to be transferred and the person transferring it shall jointly notify the Minister of the transfer in Form 7 specified in the Third Schedule to these Regulations.

(4) The Minister shall issue environmental impact assessment certificate of transfer of an environmental impact assessment certificate in Form 8 specified in the Third Schedule to these Regulations.

(5) Where no joint notification of a transfer is given in accordance with this regulation, the registered holder of the environmental impact assessment certificate shall be deemed for the purposes of these Regulations and the Act to be the owner or the person having charge, management or control of the project, as the case may be.

Surrender
certificate

of

37.-(1) The holder of an environmental impact assessment certificate may surrender the certificate issued under these Regulations to the Minister after ceasing to be responsible for the implementation of the project.

(2) The holder of the environmental impact assessment certificate shall notify the Minister through the Council of the intention to surrender the certificate under sub-regulation (1) at least six months before the surrender by submitting a notification in Form 9 specified the Third Schedule to these Regulations together with the prescribed fees.

(3) The holder of environmental impact assessment certificate shall not surrender it without the consent of the Minister.

(4) The surrender of an environmental impact assessment certificate shall not be effective until the Minister issues environmental impact assessment certificate of surrender in respect of that an environmental impact assessment certificate in Form 10 specified in the Third Schedule to these Regulations.

(5) A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the environmental impact assessment certificate prior to the date of surrender.

Cancellation of
an environmental
impact
assessment
certificate

38.-(1) The Minister may, at any time after issuing an environmental impact assessment certificate under these Regulations, on the advise of the Council-

- (a) suspend the environmental impact assessment certificate on such terms and conditions as the Minister may specify in such order; or
- (b) revoke or cancel the certificate.

(2) The Minister may suspend, revoke or cancel environmental impact assessment certificate as specified under sub-regulation (1) where-

- (a) the holder contravenes the conditions set out in the environmental impact assessment certificate;

- (b) there is a substantial change or modification in the project or in the manner in which the project is being implemented;
- (c) the project poses an environmental threat which could not be reasonably foreseen before the environmental impact assessment certificate was issued; or
- (d) it is established that the information or data given by the developer or proponent in support of his application for an environmental impact assessment certificate was false, incorrect or intended to mislead.

**PART VIII
ACCESS TO ENVIRONMENTAL IMPACT
STATEMENTS AND INFORMATION**

Documents deemed to be public documents

39.-(1) Subject to the freedom of access to environmental information, any project brief, environmental impact statement, terms of reference, public comments, report of a person presiding at a public hearing, environmental impact assessment statement, decision letter or any other information submitted to the Council under these Regulations, shall be public documents.

(2) The Council shall, grant any person who desires to consult any document referred to in sub-regulation (1), access to that document on such terms and conditions as the Council considers necessary.

Protection of proprietary information

40.-(1) A person submitting information to the Council may at anytime apply to the Council in Form 11 specified in the Third Schedule to these Regulations to exclude the information or parts thereof from being made available to the public on the basis of commercial confidentiality or national security.

(2) Where the Council grants the request made under sub-regulation (1), the information or specified parts of the information shall be excluded from public access, and an entry shall be made in the register to be maintained by the Council indicating in general, the nature of the information and the reason for which it is excluded from public access but shall remain available to the Council, which shall take all measures to maintain its confidentiality.

(3) Where the Council rejects the request that the information is proprietary, it shall communicate the decision to the developer or proponent within fourteen days of its decision.

(4) The Council shall review its decision on an application made under this regulation from time to time to determine whether the reasons for exclusion are still valid and whether the exclusion should continue.

(5) A person who is aggrieved by the decision of the Council to exclude information from public access may appeal to the Minister.

PART IX
PERIOD OF VALIDITY

Expiry of authorisation document **41.** Where, following the preparation of a project or environmental impact assessment, an environmental impact assessment certificate has been issued but no development has started within three years, the developer or proponent shall re-register with the Council any intention to develop.

Developer to inform the Council of changes to the development undertaking **42.**-(1) A developer or proponent shall inform the Council of any change to the development or undertaking.
(2) Upon information received pursuant to sub-regulation (1), the Council shall decide whether-
(a) an additional environmental impact assessment statement is required to be prepared; or
(b) any extra work is needed to be done to supplement the existing environmental impact statement.
(3) Where an additional environmental impact assessment statement is required, a developer shall follow the procedures stipulated under regulations 13, 14, 15, 16 and 17.
(4) Where a supplement to the environmental impact statement is required, the Council shall advise the developer or proponent as to the nature of the additional information required and the developer or, as the case may be, the proponent shall submit such information to the Council
(5) The Council shall circulate any information for review to any relevant Government agency and local government authority which shall send their comments to the Council within twenty days of receipt of the information.

Issue of decision letter **43.** On receipt of any comment pursuant to Regulation 23, the Council shall issue a decision letter within ten days of the close of the period set for receipt of comments.

PART X
ENVIRONMENTAL AUDIT

Objective of environmental audit **44.**-(1) The main objectives of environmental audit is to-
(a) determine how far activities and programmes of activities and processes of a project or undertaking conform with the approved environmental and social management plan of that specific project or undertaking and environmental management practices and environmental quality standards;
(b) provide a mechanism to learn from experience, and to refine design and implementation procedures of a project or undertaking so as to mitigate adverse environmental impacts; and
(c) provide regulatory bodies with a framework for checking

compliance with, and the performance of an Environmental and Social Management Plan, being part of Environmental Impact Assessment.

- (2) For purposes of achieving the objectives stipulated under sub-regulation (1), the principle functions of an environmental audit shall be to-
- (a) improve an organization or activity's compliance with environmental legislation and regulations such as air emission standards, effluent standards, waste management standards, and standard operating procedures;
 - (b) document an operation or activity's current environmental performance of operation and environmental management procedures, including emergency response planning, monitoring and reporting system and planning for future environmental performance;
 - (c) prevent damage and the tendency for environmental damage;
 - (d) confirm predicted impacts and implementation of Environmental Impact Assessment recommendations, as basis for improving the performance of environmental social and management plan and environmental assessment process;
 - (e) improve resource use through reduction in material use, to minimize wastes and to identify recycling opportunities; and
 - (f) increase actions undertaken or needing to be undertaken by an organisation or activity to meet environmental goals such as sustainable development, recycling and efficient use of resources.

Basic principles of environmental audit

45. Environmental audit shall be conducted primarily on the basic principles that-

- (a) any person who is responsible for an organisation or activity is obligated to maintain and preserve a harmonious balance between the ability of the environment to support activities and sustainable development;
- (b) an environmental audit is an effective management tool which, when intentionally undertaken, has been recognized as a highly beneficial method for operations and activities to manage their environmental impacts;
- (c) an environmental audit is a systematic, documented, periodic and objective assessment of the procedures and practices for managing environmental impacts;
- (d) an environmental audit enhances the search for effective solutions to environmental problems being faced by organisations and activities, and facilitates management control of environmental practices; and
- (e) environmental audits are conducted in a reputable and professional manner by persons certified and registered under the Environmental (Registration of Environmental Experts) Regulations, 2005.

Environmental audit

46.-(1) An environmental audit study shall be undertaken on the types of projects specified in the Third Schedule to the Act and in the first Schedule of these Regulations.

(2) Notwithstanding subsection (1), environmental audit shall be carried on the development activities which are likely to have adverse environmental impacts-

- (a) ongoing projects commenced prior to the coming into force of these Regulations; or
- (b) new projects undertaken after completion of an environmental impact statement.

(3) An environmental audit shall, unless it is a self-auditing study under Regulation 50, be conducted by a qualified and authorized environmental auditor or environmental inspector who shall be an expert or a firm of experts registered in accordance with the Environmental (Registration of Environmental Experts) Regulations, 2005.

(4) The Council shall require the proponent or a developer to undertake in the case of an ongoing project -

- (a) an initial environmental audit followed by subsequent environmental control audit studies as may be necessary at such times as shall be agreed upon by the Council and the proponent; and
- (b) an initial environmental audit to provide base in information upon which subsequent environmental control audit studies shall be based.

(5) Subject to sub-regulation (6), a proponent or a developer of a project that has undergone an environmental impact assessment shall within a period of twelve months of the commencement of the operations, and not more than twenty four months after the completion of a project whichever is earlier, undertake an environmental audit of the project or development.

(6) Environmental audit may be required sooner if the life of the project is shorter than the period prescribed under this Regulation.

(7) An environmental audit study specified under this regulation shall be conducted in accordance with the terms of reference developed by the proponent or a developer in consultation with the Council.

(8) In carrying out the environmental audit study under this Regulation, the environmental auditor shall ensure that an appraisal of all the project activities, including the production of goods and services is carried out, gives adequate consideration to environmental regulatory frameworks, environmental health and safety measures and sustainable use of natural resources.

(9) An audit report compiled under this regulation shall include the following information-

- (a) the past and present impacts of the project;
- (b) the responsibility and proficiency of the operators of the project;
- (c) existing internal control mechanisms to identify and mitigate activities with a negative environmental impact;
- (d) existing internal control mechanisms to ensure the workers' health and safety; and
- (e) the existence of environmental awareness and sensitisation measures, including environmental standards, and regulations, law and policy, for the managerial and operational personnel.

Compliance with standards	<p>47. In carrying out an environmental audit study, the environmental auditor shall comply with environmental regulations and environmental standards and such other international standards as shall be prescribed by the Council.</p>
Environmental audit steps	<p>48. Steps to be followed for the conduct of environmental audit shall be as may be prescribed in the Guidelines made by the Minister in that respect.</p>
Control audit	<p>49.-(1) A control audit shall be carried out by the Council whenever the Council deems it necessary to check compliance with the environmental parameters set for the project or to verify self auditing reports.</p> <p>(2) A control audit shall-</p> <ul style="list-style-type: none"> (a) confirm that the environmental management plan of the project is being adhered to; (b) verify the adequacy of the environmental management plan in mitigating the negative impacts of a project; and (c) ensure that the criteria used for the audit is based on the environmental management plan developed during the environmental impact assessment process or after the initial audit. <p>(3) Notwithstanding the provision of regulation 46, the Council shall direct that environmental audit be conducted after every five years following the date on which the last environmental audit was conducted on a any of the project or undertaking.</p>
Self auditing	<p>50.-(1) In executing a project or development, after the environmental impact statement has been approved by the Minister, or after the initial audit of an ongoing project, the proponent or the developer shall take all practical measures to ensure the implementation of the environmental management plan by-</p> <ul style="list-style-type: none"> (a) carrying out self auditing annually; (b) preparing an environmental audit report after each audit and submitting the report to the Council annually or as may be prescribed by the Council; and (c) ensuring that the criteria used for the audit is based on the environmental impact assessment process or after the initial audit.
Conduct of an environmental audit	<p>51.-(1) An environmental audit shall be carried out through questionnaires, and environmental site visits and test analysis and in the manner specified in this Regulation.</p> <p>(2) In conducting an initial environmental audit, an environmental auditor shall-</p> <ul style="list-style-type: none"> (a) consider the description of the project; (b) indicate the objective, scope and criteria of the audit; (c) study all relevant environmental law and regulatory frameworks on health and safety, sustainable use of natural resources and on acceptable national and international standards; (d) verify the level of compliance by the proponent or the developer with the conditions of the environmental

- management plan;
 - (e) evaluate the proponent's or the developer's knowledge and awareness of and responsibility for the application of relevant legislation;
 - (f) review existing project documentation related to all infrastructural facilities and design;
 - (g) examine monitoring programs, parameters, and procedures in place for control and corrective actions in case of emergencies;
 - (h) examine records of incidents and accidents and the likelihood of future occurrence of the incidents and accidents;
 - (i) inspect all buildings, premises and yards in which manufacturing, testing and transportation takes place within and without the project area, as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;
 - (j) examine and seek views on health and safety issues from the project employees, the local and other potentially affected communities; and
 - (k) prepare a list of health and environmental concerns of past and on going activities.
- (3) Where an environmental auditor is conducting a control audit, the environmental auditor shall-
- (a) consider the description of the project;
 - (b) indicate the objective, scope and criteria of the audit;
 - (c) inspect all buildings premises and yards in which manufacturing, testing and transportation takes place within and without the project area as well as areas where goods are stored and disposed of and give a record of all significant environmental risks associated with such activities;
 - (d) indicate the extent to which the environmental management plan corresponds to the planned arrangements and, if implemented, achieves the stated objectives;
 - (e) identify any significant source of air pollution, water pollution, land contamination and degradation, local community disturbance, wildlife disturbance and health of the workers of the project; and
 - (f) prepare a list of concerns of ongoing activities with recommendations.

Contents of
environmental
audit report

52.-(1) An environmental auditor shall indicate in the audit report the measures that exist under the environmental management plan of the proposed project to bring the project up to an acceptable environmental standard and how environmental impacts will be addressed and controlled.

(2) An environmental audit report compiled pursuant to these Regulations shall contain-

- (a) a presentation of the type of activity being audited;
- (b) an indication of the various materials, including non-manufactured materials, the final products, and by-products, and waste generated;
- (c) a description of the different technical activities, processes and

- operations of the project;
- (d) a description of the national environmental legislative and regulatory frameworks on ecological and socio-economic matters relevant to that particular project or activity;
- (e) a description of the potentially affected environment on ecological and socio-economic matters;
- (f) a prioritisation of all past and ongoing concerns of the project;
- (g) an identification of all environmental and occupational health and safety concerns of the project;
- (h) an opinion on the efficacy and adequacy of the environmental management plan of the project;
- (i) detailed recommendations for corrective activities, their cost, timetable and mechanism for implementation;
- (j) an indication of the measures taken under the environmental management plan to ensure implementation is of acceptable environmental standards; and
- (k) a non technical summary outlining the key findings, conclusions and recommendations of the auditor.

(3) Without prejudice to sub-regulation (2), the environmental audit report shall closely be styled and contain the following information:

- (a) executive summary;
- (b) project's current status information;
- (c) audit objectives and scope;
- (d) audit protocol, criteria and methodology used;
- (e) findings and observations;
- (f) description of key issues including the discovered project strengths and weaknesses;
- (g) recommended actions;
- (h) conclusions;
- (i) list of documents used or cited as references; and
- (j) appendices (photographs, future Plan of Action, consultancy and the list of stakeholders consulted).

(4) Environmental audit report shall be signed by each of the individual persons who conducted the environmental audit.

Review and verification of environmental audit report

53.-(1) An environmental audit report shall be reviewed by cross-sectoral advisory committee for purpose of establishing the accuracy and coverage of key issues and providing appropriate recommendations for remedial measures.

(2) Cross-sectoral advisory committee may conduct an on-site visit and consult stakeholders with a view to verifying the contents of the audit.

(3) During the conduct of audit review, the developer or proponent may be invited to provide clarifications and further information as may be required by the cross-sectoral advisory committee.

Post audit orders

54. The Council may issue an improvement order for the carrying out of corrective measures for mitigating the environmental degradations revealed during any audit study.

Role of

55.-(1) An environmental inspector appointed or designated in

inspectors accordance with the provisions of the Act may, at reasonable times, enter on any land, premises or facility of a project for the purposes of inspection, to examine records and to make enquiries on the project.

(2) A person who refuses to answer questions or refuses to avail documents or refuses to give other information legitimately sought by the environmental inspector commits an offence.

Audit petition by public **56.** A member of the public may, after showing reasonable cause in writing, petition the Council to cause an audit to be carried out on any project.

PART XI MONITORING

Monitoring by the Council **57.**-(1) The Council shall in consultation with sector Ministry, Government Department, agency or institutions-

- (a) monitor environmental phenomena with a view to making an assessment of possible changes in the environment and their possible impacts;
- (b) monitor the operations of any industry, project or activity with a view to determining its immediate and long term effect on the environment;
- (c) except where a baseline survey has been carried out, cause the proponent to carry out a baseline survey to identify basic environmental parameters in the project area before implementation;
- (d) determine the parameters and measurable indicators to be used in monitoring of projects; and
- (e) conduct measurement of environmental changes that have occurred during implementation.

(2) The Council shall, in consultation with the relevant sector Ministry, Government Department, agency or institution monitor ongoing projects on a continuous basis using parameters and indicators as may be prescribed in the guidelines made by the Minister in that respect.

(3) The Council shall, upon detection of non-compliance with the conditions of approval of an environmental impact assessment certificate immediately, institute remedial action.

Monitoring report **58.**-(1) Where a Sector Ministry, Government Department, agency or institution has undertaken monitoring under regulation 57, it shall submit a report to the Council, which report shall include the following-

- (a) the name and address of proponent;
- (b) the name of the proposed project;
- (c) date of implementation of the proposed project;
- (d) the date of the last monitoring report, including the report findings, action taken and its result;
- (e) details of the environmental parameters to be monitored;
- (f) results of the actual monitoring exercise;
- (g) new actions to be implemented including the criteria for the next evaluation; and
- (h) a non technical summary of findings, conclusions and

recommendations.

(2) An environmental inspector may enter upon any land or premises for the purposes of monitoring the effects of any activities carried out on that land or premises upon the environment.

PART XII GENERAL PROVISIONS

Regional and
international
issues

59. Where a project or an undertaking is likely to have a transboundary impact, the developer or proponent shall, in consultation with the Director of Environment, ensure that appropriate measures are taken to mitigate any adverse impacts taking into account any existing treaties and agreements between the United Republic and the other States.

Offences

60.-(1) Notwithstanding any licence, permit or approval granted under any written law, any person who commences, proceeds, with, executes or conducts or causes to commence, proceeds with, executes or conducts any project or undertaking without approval granted under these Regulations commits an offence and on conviction shall be liable to the punishment prescribed under the Act.

(2) Any person who-

- (a) fails to prepare and submit a project brief to the Council contrary to these Regulations;
- (b) fails to prepare and submit an environmental impact assessment statement contrary to these regulations;
- (c) is in breach of any condition of any certificate issued under these Regulations;
- (d) fraudulently makes a false statement in a project report or environmental impact statement;
- (e) fraudulently alters a project brief or an environmental impact assessment statement;
- (f) fraudulently makes a false statement in an environmental audit; or
- (g) fails to inform the Minister of a transfer of an environmental impact assessment certificate in accordance with these Regulations,
- (h) fraudulently makes a false statement in an environmental audit; and
- (i) after an audit report is submitted fails to implement improvement order or any mitigation measures specified under Regulation 16,

commits an offence and on conviction shall be liable to a punishment provided for under the Act.

Appeals

61.-(1) Any person who is aggrieved by-

- (a) a refusal to grant an environmental impact assessment certificate or by a refusal to transfer an environmental impact assessment certificate under these Regulations;

- (b) the imposition of any condition, limitation or restriction on an environmental impact assessment certificate;
- (c) the revocation, suspension or variation of an environmental impact assessment certificate issued under these Regulations;
- (d) the amount of money which the person is required to pay as fees;
- (e) the imposition of any environmental restoration order or environmental improvement order on the project by the Council; or
- (f) the approval or reinstatement by the Minister of an environmental impact assessment certificate;

may within thirty days after the date of the decision against which he is dissatisfied, appeal to the Environmental Appeals Tribunal.

(2) A person aggrieved by a decision or order of the Environmental Appeals Tribunal may, within thirty days of such a decision or order, appeal against such decision or order to the High Court.

(3) The fact that approval is given in respect of an environmental impact assessment shall not be a defence to any civil action or to a criminal prosecution under any written law.

Registers

62.-(1) The Council shall maintain the following registers-

- (a) a register of all environmental impact assessment certificates issued under these Regulations;
- (b) a register of environmental impact statements, environmental audits and monitoring reports; and
- (c) a register of approvals of applications seeking exclusion of proprietary information from public access.
- (d) a register of all individual experts or firms of experts duly authorized to conduct or prepare environmental audits; and
- (e) a register of environmental audit reports.

(2) The registers referred to in sub-regulation (1) shall be public documents maintained by the Council for inspection by any person upon the terms and conditions as the Council may specify.

Guidelines

63. The Minister may from time to time issue guidelines or orders to facilitate effective implementation of these Regulations.

Projects authorised prior to the commencement of these Regulations
Delegation of powers

64. Where, prior to the commencement of these Regulations, an authorising agency authorised any project or an undertaking, the developer or proponent shall carry out environmental audit.

65.-(1) The Minister may, by an instrument published in the Gazette, delegate powers of approval of Environmental Impact Statement to the Director of Environment, local government authorities or to sector Ministries.

(2) The Council may delegate to any local government authority or sector Ministry, the performance of any of the functions or duties of the Council under these regulations.

FIRST SCHEDULE

(Made under Regulation 6 (1))

TYPES OF PROJECTS REQUIRING AND NOT REQUIRING EIA

(a) Type A - Project requiring a mandatory EIA.

Project is likely to have significant adverse environmental impacts and that in-depth study is required to determine the scale, extent and significance of the impacts and to identify appropriate mitigation measures.

(b) Type B - Project requiring Preliminary Environmental Assessment

Project is likely to have some significant adverse environmental impacts but that the magnitude of the impacts are not well-known, a preliminary environmental assessment is required to decide whether the project can proceed without a full environmental impact assessment.

A: LIST OF PROJECTS REQUIRING EIA (MANDATORY LIST)

1. Agriculture

- (i) Large scale cultivation.
- (ii) Water resources development projects (dams, water supply, flood control, irrigation, drainage)
- (iii) Large scale mono-culture (cash and food crops including floriculture)
- (iv) Biological Pest Control
- (v) Agricultural projects necessitating the resettlement of communities.
- (vi) Introduction of new breeds of crops.
- (vii) Introduction of Genetically Modified Organisms (GMOs)

2. Livestock and Range management

- (i) Large Scale Livestock movement
- (ii) Introduction of new breeds of livestock
- (iii) Introduction of new or foreign alien species
- (iv) Intensive livestock rearing units

3. Forestry

- (i) Timber logging and processing
- (ii) introduction of new tree species and development of forest plantation
- (iii) Selective removal of single tree species
- (iv) Biological pest control
- (v) Afforestation and reforestation for the purpose of carbon sequestration
- (vi) Construction of roads inside forest reserve
- (vii) Commercial charcoal, firewood and other forest harvest operations
- (viii) Establishment of commercial logging or conversion of forested land to other uses within catchment areas

4. Fisheries

- (i) Medium to large scale fisheries
- (ii) Artificial fisheries (Aqua-culture for fish, algae, crustaceans shrimps, lobster or crabs).
- (iii) Introduction of new species in water bodies
- (iv) Large scale fish farming including prawn farming
- (v) Industrial fish processing and storage
- (vi) Introduction of Genetically Modified fish species and other aquatic species

5. Wildlife
 - (i) Introduction of new species
 - (ii) Wildlife catching and trading
 - (iii) establishment of hunting blocks or areas, especially involving resettlement of communities
 - (iv) Translocation of wildlife
 - (v) New protected areas especially involving resettlement of communities
 - (vi) Wildlife ranching and farming
 - (vii) Zoo and sanctuaries

6. Tourism and Recreational Development
 - (i) Construction of resort facilities or hotels along the shorelines of lakes, river, islands and ocean
 - (ii) Hill top resort or hotel development
 - (iii) Development of tourism or recreational facilities in protected and adjacent areas (national parks, marine parks, forestry reserves etc) on islands and in surrounding waters
 - (iv) Hunting and capturing
 - (v) Camping activities walk ways and trails etc.
 - (vi) major construction works for sporting purposes

7. Energy
 - (i) Production and distribution of electricity, gas, steam and geothermal energy
 - (ii) Storage of natural gas
 - (iii) Thermal power development (i.e. coal, nuclear)
 - (iv) Hydro-electric power
 - (v) Development of other large scale renewable and non renewable sources of energy

8. Petroleum
 - (i) Oil and gas fields exploration and development
 - (ii) Construction of offshore and onshore pipelines
 - (iii) Construction of oil and gas separation, processing, handling and storage facilities.
 - (iv) Construction of oil refineries
 - (v) Construction and/or expansion of product depots for the storage of petrol, gas, diesel, tar and other products within commercial, industrial or residential areas.
 - (vi) Transportation of petroleum products

9. Transport and infrastructure
 - (i) Construction, expansion or rehabilitation of new trunk roads
 - (ii) Construction, expansion or rehabilitation of airports and airstrips and their ancillary facilities
 - (iii) Construction or new expansion to existing railway lines
 - (iv) Construction of new, or expansion to shipyards or harbour facilities

10. Food and beverage industries
 - (i) Manufacture of vegetable and animal oils and fats
 - (ii) Oil refinery and ginneries
 - (iii) Manufacture of dairy products
 - (iv) Brewing distilling and malting
 - (v) Fish meal factories
 - (vi) Slaughter - houses
 - (vii) Soft drinks
 - (viii) Tobacco processing
 - (ix) Caned fruits, and sources
 - (x) Sugar factories
 - (xi) Other agro-processing industries

11. Textile industry
 - (i) Cotton and Synthetic fibres
 - (ii) Dye for cloth
 - (iii) Ginneries

- 12 Leather Industry
 - (i) Tanning
 - (ii) Tanneries
 - (iii) Dressing factories
 - (iv) Other cloth factories

13. Wood, Pulp and Paper Industries
 - (i) Large scale manufacture veneer and plywood
 - (ii) Manufacture of fibre board and of particle - board
 - (iii) Manufacture of Pulp, Paper, sand-board cellulose – mills

14. Building and Civil Engineering Industries.
 - (i) Industrial and housing Estate
 - (ii) Major urban projects (multi-storey building, motor terminals, markets etc)
 - (iii) Construction and expansion/upgrading of roads, harbours, ship yards, fishing harbours, air fields and ports, railways and pipelines
 - (iv) Developments on beach fronts

15. Chemical industries
 - (i) Manufacture, transportation, use and storage of pesticide or other hazardous and or toxic chemicals
 - (ii) Manufacture of pharmaceutical products
 - (iii) Storage facilities for petroleum, petrochemical and other chemical products (i.e. filling stations)
 - (iv) Production of paints, vanishes etc
 - (v) Soap and detergent plants
 - (vi) Manufacture of fertilizers

16. Extractive industry
 - (i) Extraction of petroleum
 - (ii) Extraction and purification of natural gas
 - (iii) Other deep drilling - bore-holes and wells
 - (iv) Mining

17. Non-metallic industries (Products)
 - (i) Manufacture of cement, asbestos, glass, glass-fibre, glass-wool
 - (ii) Manufacturing of plastic materials
 - (iii) Lime manufacturing, tiles, ceramics

18. Metal and Engineering industries.
 - (i) Manufacture and assembly of motorised and non motorised transport facilities
 - (ii) Body - building
 - (iii) Boiler - making and manufacture of reservoirs, tanks and other sheet containers
 - (iv) Foundry and Forging
 - (v) Manufacture of non - ferrous products
 - (vi) Manufacture of iron and steel
 - (vii) Electroplating

19. Electrical and electronics industries
 - (i) Battery manufacturing
 - (ii) Electronic equipment manufacturing and assembly
 - (iii) Installation and expansion of communication towers

20. Waste treatment and disposal
 - (a) *Toxic and Hazardous waste*
 - (i) Construction of Incineration plants

- (ii) Construction of recovery plant (off-site)
- (iii) Construction of waste water treatment plant (off-site)
- (iv) Construction of secure land fills facility
- (v) Construction of storage facility (off - site)

(b) *Municipal Solid Waste*

- (i) Construction of incineration plant
- (ii) Construction of composting plant
- (iii) Construction of recovery/re-cycling plant
- (iv) Construction of Municipal Solid Waste landfill facility

(c) *Municipal Sewage*

- (i) Construction of waste water treatment plant
- (ii) Construction of marine out fall
- (iii) Night soil collection transport and treatment.
- (iv) Construction of sewage system

21. Water Supply

- (i) Canalisation of water courses
- (ii) Diversion of normal flow of water
- (iii) Water transfers scheme
- (iv) Abstraction or utilisation of ground and surface water for bulk supply
- (v) Water treatment plants

22 Land development planning, land reclamation, housing and human settlements

- (i) Resettlement/relocation of people and animals eg. establishment of refugee camps
- (ii) Establishment or expansion of industrial estates
- (iii) Establishment of estates for residential/commercial purposes
- (iv) Major urban projects (multi-storey building, motor terminals, markets etc)
- (v) Construction and expansion of hospitals with large bed capacity
- (vi) Land reclamation including land under water bodies.
- (vii) Development of residential and commercial estates on ecologically sensitive areas including beach fronts
- (viii) Dredging of bars, greyones, dykes and estuaries

: LIST OF SMALL-SCALE ACTIVITIES AND ENTERPRISES THAT REQUIRE REGISTRATION (MAY OR MAY NOT REQUIRE EIA).

- (i) Fish culture
- (ii) Small animal husbandry and urban livestock keeping
- (iii) Horticulture and floriculture
- (iv) Wildlife catching and trading
- (v) Basket and other weaving
- (vi) Nuts and seeds for oil processing
- (vii) Bark for tanning processing
- (viii) Brewing and distilleries
- (ix) Bio-gas plants
- (x) Bird catching and trading
- (xi) Hunting
- (xii) Wildlife ranching
- (xiii) Zoo, and sanctuaries
- (xiv) Tie and dye making
- (xv) Brick making
- (xvi) Sea weed Farming
- (xvii) Salt pans
- (xviii) Urban Livestock Keeping
- (xix) Urban agriculture.
- (xx) Wood carving and sculpture
- (xxi) Hospitals and dispensaries, Schools, Community centre and Social halls, play grounds
- (xxii)

- (xxiii) Rain water harvesting
- (xxiv) Garages
- (xxv) Black smith.
- (xxvi) Tile manufacturing
- (xxvii) Kaolin manufacturing
- (xxviii) Livestock stock routes
- (xxix) Fire belts.
- (xxx) Tobacco curing
- (xxxi) Sugar refineries
- (xxxii) Tanneries
- (xxxiii) Pulp plant
- (xxxiv) Oil refineries and ginneries
- (xxxv) Artisanal and small scale mining
- (xxxvi) Rural road

SECOND SCHEDULE

(Made under Regulation 9 (1))

PROJECT SCREENING CRITERIA

The following shall be screening criteria to be used for purposes of compliance with the requirements of these Regulations:

1. The project will not substantially use a natural resources in a way that pre-empts the use, or potential use, of that resource for any other purpose.
2. Potential residual impacts on the environment are likely to be minor, of little significance and easily mitigated.
3. The type of project, its environmental impacts and measures for managing them are well understood in Tanzania.
4. Reliable means exist for ensuring that impact management measures can and will be adequately planned and implemented.
5. The project will not displace significant numbers of people, families or communities.
6. The project is not located in, and will not affect, any environmentally sensitive areas such as:
 - (a) national parks;
 - (b) wetlands;
 - (c) productive agricultural land;
 - (d) important archaeological, historical and cultural sites;
 - (e) areas protected under legislation;
 - (f) areas containing rare or endangered flora or fauna;
 - (g) areas containing unique or outstanding scenery;
 - (h) mountains or developments on or near steep hill-slopes;
 - (i) dry tropical forests (e.g. *Brachystegia* woodlands);
 - (j) development near Lakes or its beaches;
 - (k) development providing important resources for vulnerable groups such as fishing communities along the lake-shore;
 - (l) development near high population concentrations or industrial activities where further development could create significant environmental problems; and
 - (m) prime ground-water re-charge areas or areas of importance for surface run off of water.
7. The project type will not result in:
 - (a) policy initiatives which may affect the environment such as changes in agricultural pricing subsidies or the tobacco liberation;
 - (b) major changes in land tenure; or
 - (c) changes in water use though irrigation, drainage promotion or dams, changes in fishing practices.
8. The project will not cause:
 - (a) adverse socio economic impact;
 - (b) land degradation water pollution;
 - (c) water pollution;
 - (d) air pollution;
 - (e) damage to wildlife and habitat;
 - (f) adverse impact on climate and hydrological cycle;
 - (g) air pollution; and
 - (h) creation of by-products, residual or waster materials which require handling and disposal in a manner that is not regulated by existing authorities.

9. The project will not cause significant public concern because of potential environmental changes. The following are guiding principles:
 - (a) is the impact positive, mainly benign or harmful;
 - (b) what is the scale of the impact in terms of area affected numbers of people or wildlife;
 - (c) what is the intensity of the impact;
 - (d) what will be the duration of the impact;
 - (e) will there be cumulative effects from the impact;
 - (f) are the effects politically controversial;
 - (g) have the main economic, ecological and social costs been quantified;
 - (h) will the impact vary by social group or gender; and
 - (i) is there any international impact due to the proposal projects.

10. The project will not necessitate further development which is likely to have a significant impact on the environment.

THIRD SCHEDULE
FORMS FOR EIA

FORM No. 1

(Regulation 7)

Application Reference No.....

THE ENVIRONMENT MANAGEMENT ACT, 2004
SUBMISSION OF PROJECT BRIEF
PART A
DETAILS OF PROPONENT

Name of proponent (Person or Firm).....
PIN No.....
Address.....
Name of contact person.....
Telephone No. Fax No.
E-mail

PART B
DETAILS OF THE PROJECT

1. PROPOSED UNDERTAKING/DEVELOPMENT

Title of Proposal (general classification of undertaking)

Description of Proposal (nature of undertaking, unit processes [flow diagram], raw materials list of chemicals {source, types and quantities}, storage facilities, wastes/by-products {solid, liquid and gaseous}) -----
Scope of Proposal (size of labour force, equipment and machinery, installed/production capacity, product type, area covered facility/proposal, market)

2. PROPOSED SITE

Location (attach a site plan/map) -----
Current zoning -----
Distance to nearest residential and/or other facilities -----
Adjacent land uses (existing & proposed) -----
Site description -----

3. INFRASTRUCTURE AND UTILITIES

Structures (buildings and other facilities) -----
Land required -----
Water (source, quantity) -----
Power (type, source & quantity) -----
Road -----
Other major utilities (e.g. sewerage, etc.) -----

4. ENVIRONMENTAL IMPACTS

Potential environmental effects of proposed undertaking (both constructional and operational phases).

5. OTHER ENVIRONMENTAL ISSUES

Potential significant risks and hazards associated with the proposal (including occupational health and safety). State briefly relevant environmental studies already done and attach copies as appropriate.

PART C
DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

.....
Name..... Position.....
Signature.....
On behalf of.....
Date.....

(Firm name and Seal)

PART D
DETAILS OF ENVIRONMENTAL IMPACT ASSESSMENT EXPERT

Name (individual/firm).....
Certificate of registration No.....
Address.....
Tel.....Fax.....E-mail.....

PART E
FOR OFFICIAL USE

Decision of the Council.....
Comments

.....
.....
.....
Officer.....Sign.....Date.....

NB:

1. If the Project Brief does not contain sufficient information required under the Environmental Impact Assessment Regulations the applicant may be requested to give further information concerning the project or be notified of any defects in the application and may be required to provide the additional information.

2. Any person who fraudulently makes a false statement in a project report or alters the project report commits an offence.

Important notices: Please submit the following:

- (a) three copies of this form;
- (b) 10 copies of the project brief;
- (c) the prescribed fees to:
Director General,
The National Environment Management Council,
.....,
P.O. Box

Dar es Salaam.

Tel Fax.....

E-mail.....

Application Reference No.....
FOR OFFICIAL USE

THE ENVIRONMENT MANAGEMENT ACT, 2004
SUBMISSION OF ENVIRONMENTAL IMPACT ASSESSMENT
STATEMENT

PART A
DETAILS OF PROPONENT

Name of proponent (Person or Firm).....
PIN No.....
Address.....
Name of contact person.....
Telephone No. Fax No.
E-mail

PART B
DETAILS OF THE ENVIRONMENTAL IMPACT ASSESSMENT
STATEMENT

Title of the proposed project.....
Objectives and scope of the project.....
Description of the activities.....
Location of the proposed project.....
Proposed Environmental Management Plan.....

PART C
DECLARATION BY THE PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

Name.....

Position.....

Signature.....

On behalf of.....

Date.....

(Firm name and Seal)

PART D
DETAILS OF ENVIRONMENTAL IMPACT ASSESSMENT EXPERT

Name (individual/firm).....

Certificate of registration No.....

Address.....

Tel.....Fax.....E-mail.....

PART E
FOR OFFICIAL USE

Decision of the Council.....
Comments
.....
.....
.....
Officer.....Sign.....Date.....

NB: Please submit the following:

- (a) three copies of this form;
- (b) 10 copies of the project report;
- (c) the prescribed fees, to:

Director General,
The National Environment Management Council,

.....,

P.O. Box,

Dar es Salaam.

Tel Fax.....

E-mail.....

Application Reference No.....
Registration No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004

ENVIRONMENTAL IMPACT ASSESSEMENT

CERTIFICATE

This is to certify that Ms

.....
.....
.....of
address.....

has this day been granted an Environmental Impact Assessment Certificate for the
proposed project/activity titled:

.....
.....
Which is located at

.....

This certificate shall remain in force during the whole lifecycle of this specific
project unless henceforth revoked or suspended.

General and specific conditions and terms attached to this certificate are set out
overleaf.

.....

Dated this.....dayof 20.....

Signature.....

Minister Responsible for Environment.

Conditions of certificate:

1. This certificate is valid for a period of time
within which the project should commence) from the date thereof.

2. The Minister shall be notified of any transfer/variation/surrender of
this certificate.

3. Observe all relevant national policies and legislation that guide this
specific project throughout its life cycle.

4. Ensure safe disposal of all types of wastes (solid or liquid) in specified
sites.

5. Ensure environmental sustainability by avoiding any form of pollution
by using most viable management techniques.

6. Adhere to the Environmental Management Plan (EMP) and Monitoring
Plan (MP) and constantly improve and update them by taking into account any
new developments.

7. Constantly liaise with relevant authorities and consult stakeholders
including local communities in case of any new development or changes as regards
to implementation of your project plan or activities

8. Adhere to all proposed mitigation measures as specified in the
Environmental Management Plan contained in the Environmental Impact
Statement.

9. Abide to all national social and environmental safeguard policies and

standards and strive to maintain and constantly improve standards.

10. Prepare an Emergency and Contingency plan and put in place risk and safety measures.

11. Conduct periodic Environmental Audits and facilitate monitoring by relevant authorities.

12. Design and implement an internal Environmental and Safety Policy and Awareness Programme.

13. Prepare Annual Environmental Reports and any other reports requested by competent authorities and the government.

14. Obtain all other relevant permits.

Form No. 4

(Regulation 27)

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
NOTICE TO THE PUBLIC TO SUBMIT COMMENTS ON AN
ENVIRONMENTAL IMPACT ASSESSMENT STATEMENT

Pursuant to Regulation 27 of the Environmental Impact Assessment Regulations, the National Environmental Management Council (NEMC) has received an Environmental Impact Assessment statement from the implementation of the proposed project.....

.....

..... (brief description of project) located at

..... (locality) of

.....District. The said project anticipates the following impact.....

.....

(describe anticipated impacts and proposed mitigation measures).

The full report of the proposed project may be inspected during working hours at:

(a) The National Environment Management Council Headquarters,

(b)

(c)

NEMC invites members of the public to submit oral or written comments withindays of the date of publication of this notice to assist the Council in the review process before it is submitted to the Minister for approval or disapproval of the project to:

(a) Director General, NEMC,

(b)

(c)

Dated this.....dayof 20.....

Signature.....

(Seal)

Director General,
The National Environmental Management Council.

Application Reference No.....
Certificate No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
APPLICATION FOR VARIATION OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE

PART A
PREVIOUS APPLICATIONS

No previous application for variation of an environmental impact assessment certificate.*

The environmental impact assessment certificate was previously amended.*

PART B
DETAILS OF APPLICANT

Name (Individual or Firm).....
Business Registration No.....
Address.....
Name of contact person.....
Position of contact person.....
Address of contact person.....

Telephone No.....Fax.....No.....
E-mail.....

PART C
DETAILS OF CURENT ENVIRONMENTAL IMPACT ASSESSMENT
CERTIFICATE

Name of the current Environmental Impact Assessment certificate holder.....
.....
Application No. of the current Environmental Impact Assessment certificate.....
.....
Date of issue of the current Environmental Impact Assessment certificate.....
.....

PART D
PROPOSED VARIATIONS TO THE CONDITIONS IN CURENT
ENVIRONMENTAL IMPACT ASSESSMENT CERTIFICATE

Conditions in the current Environmental Impact Assessment certificate.....
.....
.....
Proposed variation(s).....
.....
.....

Reason for variation (s)

Describe the environmental changes arising from the proposed variation (s)

Describe how the environment and the community might be affected by the proposed variation (s)

Describe how and to what extent the environmental performance requirements set out in the EIA report previously approved or project profile previously submitted for this project may be affected.....

Describe any additional measures proposed to eliminate, reduce or control any adverse environmental impact arising from the proposed variation(s) and to meet the requirements in the Technical Memorandum on Environmental Impact Assessment Process.....

**PART E
DECLARATION BY APPLICANT**

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief. I understand the environmental impact assessment certificate may be suspended, varied or cancelled if any information given above is false, misleading, wrong or incomplete.

Name	Position	Signature
On behalf of.....
Company name and seal		Date

**PART F
FOR OFFICIAL USE**

Decision of the Council.....

Comments

Officer.....Signature.....Date.....

Important notes
Please submit-

- (a) 3 copies of this completed form; and
- (b) the prescribed fees, to:
Director General,
The National Environment Management Council,
.....,
P.O. Box,

Dar es Salaam.

Tel Fax.....

E-mail.....

*Delete where applicable

Form No. 6

(Regulation 35 (2))

Application Reference No.....

Certificate No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
CERTIFICATE OF VARIATION OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE

This is to certify that the Environmental Impact Assessment Certificate
No.....Issued on..... (date)
to.....(name of individual/firm) of
.....(address) regarding
.....(title of project)
whose objective is to.....

.....
(briefly describe purpose) located at..... (locality and
District) has been varied to.....

.....
.....(nature of variation) with effect from
(date of variation) in accordance with the provisions of the Act.

Dated this.....dayof 20.....

Signature.....

(Seal)

Minister Responsible for Environment

Application Reference No.....
Certificate No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
NOTIFICATION OF TRANSFER OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE

PART A
DETAILS OF CURRENT CERTIFICATE

Name of the current Environmental Impact Assessment certificate holder.....
PIN No.....
Address..... Tel:
Fax No..... E-mail.....
Application No. of current Environmental Impact Assessment certificate

Date of issue of current Environmental Impact Assessment certificate.....

PART B
DETAILS OF THE TRANSFEREE

Name (Individual/Firm).....
PIN No.....
Address..... Tel.....
Fax No..... E-mail.....
Name of contact person.....
Capacity of transferee to run the project (financial, technological, manpower)
.....
.....
.....

PART C
REASON(S) FOR TRANSFER OF CERTIFICATE

.....
.....
.....

PART D
DECLARATION BY TRANSFEROR AND TRANSFER

It is hereby notified that.....
of on this day oftransferred
EIA certificate No.toof
..... who will assume his responsibility for all liability under this
project.

Transferor	Transferee
Name	Name
Address.....	Address.....
Signed.....	Signed.....

Date..... Date.....

PART E
FOR OFFICIAL USE

Approved/Not approved
.....
Comments
.....
.....
.....
Officer.....Signature.....Date.....

Important Notes:

1. Where an Environmental Impact Assessment certificate is transferred, the person to whom it is transferred and the person transferring it shall notify the Minister of the transfer.

2. The person holding and environmental impact assessment certificate assumes responsibility for the transfer of the certificate only in respect of the project to which this certificate was issued.

3. Any transfer of an environmental impact assessment certificate, shall take effect on the date the Minister is notified.

4. This Form must be submitted in quadruplets, with

5. Prescribed fees, to:

Director General,
The National Environment Management Council,
.....,

P.O. Box,

Dar es Salaam.

Tel Fax.....

E-mail.....

Form No.8

(Regulation 36 (4))

Application Reference No.....

Certificate No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
CERTIFICATE OF TRANSFER OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE

This is to certify that the Environmental Impact Assessment Certificate No.....Issued on..... (date)
to.....(name of previous holder) of
.....(address) regarding
.....(title of project)
whose objective is to.....
.....
.....

(briefly describe purpose) located at..... (locality and District) has been varied to..... (name of new holder) of (address) with effect from(date of transfer) in accordance with the provisions of the Act.

Dated this.....dayof 20.....

Signature.....

(Seal)

Minister Responsible for Environment

Important notes

1. The transferee as well as the transfer of a certificate under this regulation shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the certificate transferred.

2. The transfer or shall not responsible for any future liabilities or any obligations so imposed with regard to the certificate from the date the transfer is approved.

Form No. 9

(Regulation 37 (2))

Application Reference No.....
Certificate No.....

FOR OFFICIAL USE

**THE ENVIRONMENTAL MANAGEMENT ACT, 2004
NOTIFICATION OF SURRENDER OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE**

**PART A
PROPONENT DETAILS**

Name (Individual or Firm).....
PIN No.....
Address.....
Name of contract person.....
Position of contract person.....
Address.....Tel.....Fax No.....
E-mail

**PART B
DETAILS OF THE CURRENT ENVIRONMENTAL IMPACT ASSESSMENT
CERTIFICATE**

Environmental	Impact	Certificate	No.
.....			
Title of project under the current Environmental Impact Certificate			
.....			
.....			

.....
Please state the following details of the Environmental Impact Assessment Certificate to be surrendered.

(a) scope/scale of project(s).....
.....

(b) Conditions on the EIA certificate.....
.....
.....
.....

PART C
REASON(S) FOR SURRENDER

.....
.....
.....

PART D
DECLARATION BY PROPONENT

I hereby certify that the particulars given above are correct and true to the best of my knowledge and belief.

.....
Name of applicant Full Name in Block letters Position

On behalf of.....
Company name and seal Date

PART E
FOR OFFICIAL USE

Recommendations.....
Comments

.....
.....
Officer.....Sign.....Date.....

Important notes:
Intent to surrender an environmental impact assessment certificate should be communicated to the Council at least six months before the date of surrender.

Application Reference No.....
Certificate No.....

FOR OFFICIAL USE

THE ENVIRONMENTAL MANAGEMENT ACT, 2004
CERTIFICATE OF SURRENDER OF ENVIRONMENTAL IMPACT
ASSESSMENT CERTIFICATE

This is to certify that the Environmental Impact Assessment Certificate No.....Issued on..... (date) to.....(name of individual/firm) of(address) regarding(title of project) whose objective is to..... (briefly describe purpose) located at..... (locality and District) has been duly surrendered with effect from..... (date) to the Minister in accordance with the provisions of these Regulations.

Dated this.....dayof 20.....

Signature.....

(Seal)

Minister Responsible for Environment

Important note:

A surrender shall be without prejudice to any liabilities or obligations which have accrued on the holder of the certificate prior to the date of surrender.

Form No.....
Reference No.....

FOR OFFICIAL USE
ENVIRONMENTAL MANAGEMENT ACT, 2004
NATIONAL ENVIRONMENTAL MANAGEMENT COUNCIL
APPLICATION FOR ACCESS TO INFORMATION

PART A
DETAILS OF APPLICANT

Name.....
Address.....
.....
.....
Telephone:.....Fax.....
E-mail.....
Profession.....
Date.....

NAME OF EMPLOYER If applicable).....
Address.....
Telephone:.....Fax.....
E-mail
Designation

PART B
INFORMATION REQUIRED (tick as appropriate)

- Project brief report
- Environmental Impact Assessment Statement
- Environmental Audit Report
- Environmental Monitoring Report
- Record of Decision (ROD) for Environmental Impact Assessment Approvals

- Certificate for Environmental Impact Assessment
- Environmental Impact Assessment Experts (Individuals)

DOCUMENT

Title of the document.....
Author.....
Year.....

HOW THE INFORMATION IS EXTRACTED? Reading,
 Inspection/viewing

PURPOSE FOR REQUIRING THE INFORMATION

- Educational Research
- Interested party Affected party

Important note

A prescribed fee of Tshs.will be charged for access to information per record/register.

FOURTH SCHEDULE

(Made under Regulation 15)

STEPS FOR CONDUCTING ENVIRONMENTAL IMPACT ASSESSMENT

Steps 1: Project Registration and Screening

1. Developer or proponent submits a dully filled registration form and project brief to the Council as per Regulation 9.
2. Council shall then undertake a review of the project brief in accordance with Regulation 10 and 11.
3. Council undertakes the screening of the proposed project in accordance with Regulation 12 and undertake the screening in accordance with any guidelines that the Minister may issue for this activity.

Steps 2: Scoping

The developer, proponent, environmental experts or firm of experts shall undertake a scoping exercise in order to:

- (a) identify the main stakeholders that will be negatively or positively impacted by the proposed project;
- (b) identify stockholder's main concerns regarding the proposed project,
- (c) identify main project alternatives;
- (d) identify likely impacts, data requirements, tool and techniques for impact identification, prediction and evaluation;
 - (i) identify project boundaries in terms of spatial, temporal and institutional aspects;
 - (ii) environmental experts or firm of experts must ensure there is adequate stakeholder participation in this and all the other stages of the environmental impact assessment; and
- (e) the developer or the environmental experts or firm of experts prepares a scoping report and terms of reference for the environmental impact assessment of a proposed project and submits to the Council for approval.

Steps 3: Baseline Study

- (i) The environmental experts or firm of experts undertake detailed survey of the existing social, economic, physical, ecological, social-cultural and institutional environment within the project boundary area; and
- (ii) The consultant must ensure adequate stakeholder participation is engaged.

Steps 4: Impact Assessment

- (i) The consultant undertakes impact identification, impact prediction and evaluation of impact significance following a variety of appropriate techniques and approaches as specified in the guidelines issued under this Regulation.
- (ii) The environmental experts or firm of experts must ensure that concerns and views from stakeholders are

fully taken into account during the assessment of impacts; and

- (iii) The environmental experts or firm of experts assesses all possible alternatives and their impacts and recommends most appropriate options

Steps 5: Impact mitigation and enhancement measures

- (i) environmental experts or firm of experts prepare impact mitigation measures for all negative significant impacts, either by elimination, reduction or to remedy them;
- (ii) environmental experts or firm of experts prepare enhancement measures for all significant positive effects arising from the project so as to increase the contribution from the project to social development and environmental conservation;
- (iii) environmental experts or firm of experts prepare Mitigation and Enhancement Plan for all significant negative impacts and positive effects, with details about institutional responsibilities and costs were appropriate; and
- (iv) environmental experts or firm of experts prepare a Monitoring Plan and Environmental and Social Management Plan with details about institutional responsibilities, monitoring framework, parameters, indicators for monitoring and costs of monitoring were appropriate.

Steps 6: Preparation of Environmental Impact Statement

- (i) environmental experts or firm of experts prepare an environmental impact statement adhering to contents outlined in these Regulations;
- (ii) environmental impact statement must be accompanied with a stand-alone non-technical summary in both Kiswahili and English languages; and
- (iii) All technical details, including assessment methodologies, list of consulted stakeholders and their signatures, drawings and terms of references are put in the appendix.

Steps 7: Review of Environmental Impact Statement

- (i) Council reviews the Environmental Impact Statement adhering to the review criteria and any guidelines that may be issued under these Regulations;
- (ii) Council may call for a public hearing and public review of the Environmental Impact Statement in accordance with conditions and procedures stipulated under these Regulations; and
- (iii) Council shall submit review report to the Minister with its recommendations and all documents used in the review for approval or disapproval.

Steps 8: Environmental Monitoring and Auditing

The Council shall conduct environmental monitoring in order to evaluate the performance of the mitigation measures following the prepared Environmental and Social Management Plan as well as Monitoring Plan, thus:

- (i) monitoring include the verification of impacts,

- adherence to approve plans, environmental standards and general compliance of terms and conditions set out in the Environmental Impact Assessment certificate;
- (ii) developer can also undertake monitoring of the implementation of the project to ensure if mitigation measures are effective;
 - (iii) both the developer and the Council collects data that can be used in future projects and for environmental management;
 - (iv) Council and the developer undertakes environmental audits for the project;
 - (v) mechanisms for stakeholder participation during the monitoring and auditing process must be defined and followed through;
 - (vi) the auditing exercise may focus in the following areas:
 - (a) implementation/enforcement audit, which takes place when the Council verifies if the mitigation measures and levels of pollution are within limits
 - (b) performance/regulatory audit that entails identification of compliance to relevant legislation or safety standards
 - (c) impact prediction audits checks the accuracy and efficacy of the impact prediction by comparing them with monitored impacts.
 - (d) Council collects and compiles information arising from auditing for future use; and
 - (e) developer collects data from the auditing and compiles information for project management and also for submission to the Council

Steps 9: Decommissioning

This is the end of the project life. The decommissioning report shall be prepared either as part of the environmental impact statement or separately, indicating how impacts will be dealt with, including costs of mitigation measures:

- (i) developer undertakes the decommissioning of the project as per the proposals stipulated in the environmental impact statement;
- (ii) Council shall continue to monitor implementation of the decommissioning plan, including rehabilitation of the land and other resources that were affected by the project; and
- (iii) The decommissioning report must ensure issues such as welfare of workers, resource users as well as their general livelihoods are not worse off as a result of the decommissioning.

Dar es Salaam,
....., 2005

ARCADO D. NTAGAZWA,
Minister of State, Vice President's Office,
(Environment and Union Matters)

National Land Policy



THE UNITED REPUBLIC OF TANZANIA
NATIONAL LAND POLICY

MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT
DAR ES SALAAM TANZANIA

NATIONAL LAND POLICY

**The Ministry of Lands and Human Settlements
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PREFACE

The new national land policy which is hereby introduced is the result of extensive consultation and deliberation. It incorporates the position of the Government on the report of the Presidential Commission of Inquiry into Land Matters reached by the Cabinet on December 22, 1994, the recommendations and observations of the National Workshop on Land Policy held at Arusha on January 16 - 18, 1995 and comments and suggestions from the public and mass media. The government is convinced that implementation of these proposals offers the best opportunity to bring about, in a responsible and orderly fashion, a land dispensation which is economically sound and compatible with the aspirations of Tanzania.

This policy represents a new turning-point in the development of Tanzania. The present system of land tenure accepted since independence, and further developed over three decades is a product of the past. Colonial history, conflicting statutory measures, broad socioeconomic patterns and demographic trends all to some extent played a role. All these factors and many others contributed to current problems that exist concerning land tenure and land use. These problems cannot be solved merely by piecemeal legislation or by policy directives. The right to land with secure tenure must be respected, but land problems extend much further than individual claims to tenure rights. They involve other issues such as the economic use of land, rural and urban development, housing, squatting, the quality and security of title, advancement of agriculture and the protection of the environment.

The policy guidelines set out in this document, together with the legislation proposed in support, will give substance to this government's development objectives. At the same time it is being ensured that the tried and tested juridical basis on which existing land rights and existing patterns of community order are regulated will remain intact.

The Ministry of Lands, Housing and Urban Development ~~wishes to~~ thank the Cabinet, officials of other line ministries, interest groups and others who, by their efforts, made this end-product possible.

E. N. Lowassa (MP)
Minister for Lands, Housing and Urban Development

DEFINITIONS:

1. "Public land" means all land in Tanzania whether granted, customary or unoccupied.
2. "Depreciated replacement cost" means the cost of putting up an equivalent structure as the one existing at the time of valuation and making allowance for age, state of repair and economic obsolescence.
3. "Opportunity cost" refers to the principle of equivalence or substitution, i.e., the cost a rational buyer will incur (pay) for acquiring an equally desirable alternative.
4. An "Environmental Impact Assessment" (EIA) which is a decision-making tool, and entails the following aspects:-
 - (i) The study of effects of a proposed action/project/activity on the environment.
 - (ii) A comparison of various alternatives by which a desired objective may be realized(achieved) and seeks to identify which one represents the best combination of economic and environmental costs and benefits.
 - (iii) Prediction of changes in environmental quality that would result from the proposed action.
 - (iv) Attempts to weigh environmental effects on a common basis with economic costs and benefits.
5. "Tanzania" in this policy means Tanzania Mainland.
6. "The Minister" means the minister for the time being responsible for Lands.
7. "The Commissioner" means the Commissioner for Lands.

8. "Prime area" means property located in an area that yields a maximum profit to developers after all other factors of development and use have been satisfied.
9. "Market value" means the most probable selling price or the value most often sought by buyers and sellers. It assumes buyers and sellers have reasonable knowledge, act competitively and rationally, are motivated by self interest to maximize satisfaction and both act independently and without collusion, fraud or misrepresentation.
10. "Urban authority" means a city council, a municipal council or a town council.
11. "Village" means a village registered as such under the Local Government (District Authorities) Act No. 25, 1982.
12. "Reproduction cost" means the cost of site plus cost of land, labour, and materials to replicate improvements.

1.0 INTRODUCTION:

1.1 Need for a Land Policy:

Since Tanzania attained political independence in 1961, there has been the need to have a comprehensive land policy that would govern land tenure, land use management and administration. In particular, the following developments have made it imperative to have a new National Land Policy:-

- (i) Changes in land use and the increase in human population over the last two and half decades, have increased the demand for land and competition for plots especially in and around major urban centres.
- (ii) Growth in the already large livestock population has raised the demand for grazing land (including that now under cultivation) and has also created serious soil erosion problems in some areas like Nzega, Dodoma and Kondoa districts, Shinyanga and Mwanza Regions where the effects of overgrazing on the ecosystem are most visible.
- (iii) On the other hand, population increases mentioned in (i) and (ii) above and government policies since 1967 favouring agriculture have resulted in the extension of cultivation to marginal land areas. Such encroachments have resulted in a reduction of areas available for pastoralists and transhumants particularly in Mwanza, Shinyanga, Tabora, Arusha and Singida regions.
- (iv) The increased movement of large herds of livestock from traditional livestock keeping areas to low livestock population areas such as Mbeya, Iringa, Morogoro, Rukwa and Ruvuma Regions, is creating land use conflicts in the receiving areas.
- (v) Increased urbanization requiring more land for settlements, industries and commerce etc., on one hand, and the need to preserve valuable agricultural land on the other, have

intensified competition for land in and around urban centres over the last 30 years.

- (vi) The recent upsurge of prospective investors wishing to acquire large pieces of land in various parts of the country in response to the country's investment promotion policy has increased competition for arable land and increased conflicts with villagers in some districts.
- (vii) Creation, relocation and expansion of villages under the 1971 to 1976 villagization programme (Operation Vijiji) affected customary land tenure in many rural areas making it sometimes difficult to determine with certainty the kind of land tenure system now operational in these areas.
- (viii) Increasing awareness amongst the population of the value of land and property (buildings) also cause land conflicts in both rural and urban areas, especially as more people compete for the limited number of demarcated plots each year or for land acquired through purchase, inheritance, or allocation by the local leadership
- (ix) Land markets are developing in and around urban centres and require recognition and regulation to enable the government to capture gains from land market transactions.
- (x) Within villages and fringes of major urban centres and depending on their proximity to urban areas and the communication networks, land transactions have been taking place with prices reflecting locational advantages and land quality although the present land laws do not allow transactions such that there is a need to have a clear policy on land markets and transactions.
- (xi) The evolution of customary tenure towards more individualized ownership has been accompanied by the development of land markets especially in areas with high agricultural potential. As a result areas such as Kilimanjaro Region, Bukoba and Rungwe, Arusha and Aru-meru

Districts where land is scarce and cash crops like coffee, tea and wheat are grown mainly on individual holdings calls for pragmatic land policies to accommodate the aspirations of the people and the needs of the economy.

- (xii) Adoption of political pluralism, new economic and social policies and uncertainty in land rights calls for a different approach for protecting land rights of individuals and organisations to ensure continuity.
- (xiii) Finally, Recent Court of Appeal decisions affirming customary tenure rights in areas affected by villagization provided guidance for addressing such land tenure problems in a fashion compatible with the basic values and ideals of the nation.

These factors call for a comprehensive policy which would not only guide the allocation, ownership and use of land but also help resolve any recurring land conflicts. However, this policy reiterates and retains the four central land tenure tenets in a modified form that land is publicly owned and vested in the President as a trustee on behalf of the citizens; speculation in land will be controlled; rights of occupancy whether statutory or customary are and will continue to be the only recognized types of land tenure; and rights and title to land under any consolidated or new land law will continue to be based mainly on use and occupation.

1.2 Major Geographical Features and Land Uses

Tanzania has an area of about 942,600 square kilometers and an estimated population of about 28 million people in 1994. The land surface of Tanzania is some 888,200 square kilometers. Although the population density per square kilometre is generally low, there are some parts of the country like Ukerewe, Rungwe, Lushoto, Moshi, Arumeru and Bukoba districts with high population densities of 230 persons or more per square kilometre. With the exception of a few mountains, most of the country forms a plateau lying 1020 to 1650 meters above sea level.

It has been estimated that about 75 percent of the land area is either uninhabited or difficult to manage because of either difficult relief, tsetse flies or unreliable rainfall, national parks, game and forest reserves which are scattered throughout the country, include mountains and inland waters notably lakes and rivers etc. About 407,578 square kilometres or 46 percent of the total land area are forests and woodland, while 40 percent is permanent pasture. Although Tanzania has about 48,710,000 hectares or 487,100 square kilometres of arable land, 1992 statistics from the Ministry of Agriculture shows that only about 10.1 percent of the country's total land area is under cultivation. Of this area, nearly 93.4 percent (46 thousand square kilometers) is used for small-scale farming by land holders who cultivate the land mainly under customary tenure. The remaining 6.6 percent is under large scale farming under granted rights of occupancy. Furthermore, 611,238 square kilometres or 69 percent of the total land area is pasture or grazing land, of which only 438,790 square kilometres or 71.8 percent is actually used. This policy aims at enhancing these positive features as will be spelt out under the following section on objectives, and in other subsequent sections of this policy document.

2.0 OBJECTIVES

The overall aim of a National Land Policy is to promote and ensure a secure land tenure system, to encourage the optimal use of land resources, and to facilitate broad-based social and economic development without upsetting or endangering the ecological balance of the environment. The specific objectives of this National Land Policy are to:-

- 2.1 Promote an equitable distribution of and access to land by all citizens.
- 2.2 Ensure that existing rights in land especially customary rights of small holders (i.e. peasants and herdsman who are the majority of the population in the country) are recognized, clarified, and secured in law.
- 2.3 Set ceilings on land ownership which will later be translated into statutory ceilings to prevent or avoid the phenomenon of land concentration (i.e., land grabbing).
- 2.4 Ensure that land is put to its most productive use to promote rapid social and economic development of the country.
- 2.5 Modify and streamline the existing land management systems and improve the efficiency of land delivery systems.
- 2.6 Streamline the institutional arrangements in land administration and land dispute adjudication and also make them more transparent.
- 2.7 Promote sound land information management.
- 2.8 Protect land resources from degradation for sustainable development.

3.0 EVOLUTION OF LAND TENURE IN TANZANIA

Before Tanzania was colonized by the Germans and then the British, the general structure of landholding was based on traditional law and culture of each respective tribe in an area. The individual as a member of a family, clan or tribe acquired rights of use in the arable land he and his family could clear, cultivate and manage. However, when the land showed signs of exhaustion, then shifting cultivation was practiced. In many of these areas, there was and there is still communal land for grazing and forest lands for cutting firewood. This type of extensive cultivation was acceptable and viable under conditions of low population densities, abundance of land and subsistence agriculture.

Initially each tribe had Chiefs and elders or Headmen who controlled and allocated land to individuals (i.e., members of that tribe) on behalf of the tribe in a fiduciary capacity. This system was continued even during German and British Colonial rule of Tanzania. However, following the abolition of Chieftaincy by the African Chiefs Ordinance (Repeal) Act. No. 13 of 1963 (Cap. 51) after Tanzania obtained independence in 1961, the controlling power of Chiefs over land which was one of their traditional functions was rendered obsolete. When land was held under family tenure, each member or and heir of that family had a definite share in that property. Each member of the family could not dispose of his share without either getting the consent of other family members and a right of preemption to other heirs. Similarly, where land was held in a clan, the owner could not dispose of it to a non clan member without first getting the permission of the clan elders.

The introduction and promotion of plantation agriculture under German administration introduced a different land tenure system in the country whereby land mainly prime agricultural land was allocated in freeholds, mostly to settlers. Alienation of land, save that which was in private ownership or possessed by Chiefs or indigenous communities, was facilitated by the passing of the Imperial Decree "Regarding Creation, Acquisition and Conveyance of Crown Land" in 1895 which declared all land as Crown land vested in the German Empire. This was indeed the beginning of nationalization of land. Transfer of crown land could only be effected through the Governor either by conveyance of ownership or lease. However, in order to protect the land rights of

natives, although in practice it failed to stop land grabbing, the Decree stated that transfer of ownership or lease of township land of more than one hectare, and of all other lands, by natives to non-natives for a period exceeding fifteen years, could not take place without the consent of the Governor.

Under the British Administration, the system of land holding continued to change. Following the enactment of the Land Tenure Ordinance Number 3 of 1923 (which is called Land Ordinance Chapter 113), all land in Tanzania whether occupied or unoccupied was declared to be public land. This Ordinance introduced the concept of "rights of occupancy" in the country. Under this new land tenure system, rights over or in land were placed under the control of the Governor to be held, used or disposed of as rights of occupancy for the benefit of the indigenous people of Tanzania. In an attempt to protect native rights in land, in 1928, a right of occupancy was redefined to include the "title of a native community lawfully using or occupying land in accordance with customary law". The word native was defined to mean any "native of Africa not being of European or Asiatic origin or descent and includes a Swahili but not a Somali". However, this Ordinance and its definitions failed to protect native rights in their land because it could not prevent compulsory acquisition of native lands by the Colonial government for the benefit of immigrants.

In order to avoid the creation of a small landed class after the attainment of independence in 1961, Freehold Titles were converted into leaseholds under the "Freehold Titles (Conversion) and Government Lease Act (Cap. 523) of 1963 and were later changed into Rights of Occupancy under the Government Leaseholds (Conversion of Right of Occupancy) Act No. 44 of 1969.

The following are the main Characteristics of freehold titles which gave the government little control over such land:-

- (i) A freehold entails the exclusive possession of land rights in perpetuity.
- (ii) Under a freehold title, there is no term on the holding of land imposed to the owner.

- (iii) The Owner has the right to subdivide or lease the land etc. so long as these actions do not violate land use policies as stipulated by zoning regulations and local by-laws.**
- (iv) There are no development conditions imposed on the title of the Owner.**
- (v) The Government has no right to interfere with the legal occupation and use of that right or land.**

The Government retained the Right of Occupancy type of land tenure which has the following characteristics:-

- (i) There is a definite term for the occupation and use of the land granted.**
- (ii) Development conditions are imposed on the holder of that land.**
- (iii) The holder of that land has no right to subdivide, transfer or mortgage the same without the consent of the Commissioner for Lands.**
- (iv) The holder has to pay rent to the Government.**
- (v) The President of the United Republic of Tanzania may revoke the Right of Occupancy of the landholder.**

4.0 LAND TENURE AND ADMINISTRATION

4.1.0. LAND TENURE:

The existing land tenure system which is described in Section 3 above is fundamentally sound. However there are some areas especially on land administration where shortcomings in the system hinder development and has raised concerns from the public. Thus while retaining the virtues of the existing tenure system, there is need for modifications to suit the present social and economic situation in Tanzania.

4.1.1. Policy Statements:

- (i) Land will be graded as a constitutional category. In particular the following four basic land policy tenets will be entrenched in the Constitution to ensure continuity:
 - (a) All land in Tanzania is public land vested in the President as trustee on behalf of all citizens.
 - (b) Land has value.
 - (c) The rights and interests of citizens in land shall not be taken without due process of law.
 - (d) Full, fair and prompt compensation shall be paid when land is acquired.
- (ii) The power of the Executive with respect to land administration will be subject to limitations embedded in the laws and procedures.
- (iii) Village Councils will administer village lands and their powers will be subject to limitations embedded in the laws and procedures.
- (iv) Consultation and consent of a Village Council will be required whenever alienation of Village lands is necessary.

- (v) Village Councils shall report to their respective Village Assemblies all land allocations in their respective villages.
- (vi) A dual system of tenure which recognizes both customary and statutory rights of occupancy as equal in law will be established.
- (vii) Right of Occupancy shall include all rights over land acquired through direct grants, relevant customary procedures and alienation by legally designated allocating authorities.
- (viii) The term of tenure for statutory Right of Occupancy shall not exceed 99 years. Customary Rights of Occupancy shall have no term limit.
- (ix) A Right of Occupancy as a title to the use and occupation of land shall be confirmed by a Certificate of Title for the Statutory Right of Occupancy. Customary Right of Occupancy will be confirmed by Hati ya Ardhi ya Mili which will be issued by the Village Council and registered at the corresponding District Land Registry.

4.2.0 LAND ADMINISTRATION

4.2.1 ALLOCATION

The absence of clearly defined institutional hierarchy for land administration has resulted in multiple land allocations which in turn lead to complicated land disputes. Hence government agencies responsible for land matters have been and are spending a lot of time dealing with disputes instead of doing proper land management and planning work.

4.2.2. Policy Statements

- (i) The Commissioner for Lands shall be the sole authority responsible for land administration.

- (ii) The Commissioner will appoint officers who will have authority to administer land other than village land at the appropriate levels of government.
- (iii) Village Councils shall administer village lands but will be required to report all decisions on land allocation to the Village Assemblies.
- (iv) The procedures and powers of the appointed officers will be defined by the Minister and shall include the execution of decisions made by Village Councils with respect to village land administration.

4.2.3. ACCESS TO LAND

Under the present land laws, there are no restrictions on access to land in this country. Any person, citizen or foreigner, can apply and be allocated land for any type of use. This has facilitated acquisition of land for speculative purposes, especially in prime agricultural, industrial, commercial and residential areas.

4.2.4 Policy Statements:

- (i) All citizens shall have equal and equitable access to land.
- (ii) In the case of local companies, priority shall be given to those whose majority share holders are citizens.
- (iii) Non-citizens shall not be granted land unless it is for investment purposes under the Investment Promotion Act.
- (iv) Non-citizens and foreign companies will not be allowed to acquire land through transfer or purchase of customary land.
- (v) Non-citizens and foreign companies can only acquire land in accordance with the law. The transfer of customary land rights by citizens to non-citizens will be prohibited.

- (vi) Allocation of land for residential and institutional uses whenever possible will be on a cost recovery basis.
- (vii) Prime residential, commercial and industrial land will be allocated in a transparent manner such as open tender or auction.
- (viii) All grants of land shall be done after the subject land has been fully surveyed and approved by the Director of Surveys and Mapping.

4.2.5. WOMEN ACCESS TO LAND

Under customary land law, women generally have inferior land rights relative to men, and their access to land is indirect and insecure. Traditional provisions which used to protect women's land use rights have been eroded. In allocating land village councils have been guided by custom and have continued to discriminate against women by allocating land to heads of household who are usually men.

4.2.6. Policy Statement:

- (i) In order to enhance and guarantee women's access to land and security of tenure, Women will be entitled to acquire land in their own right not only through purchase but also through allocations. However, inheritance of clan land will continue to be governed by custom and tradition provided such custom and tradition is not contrary to the Constitution and is not repugnant to principles of natural justice.
- (ii) Ownership of land between husband and wife shall not be the subject of legislation.

4.2.7. LAND UTILIZATION

At present big parcels of land are being allocated to individuals, private firms including foreign investors regardless of their proven ability to develop them. As a result, large areas of land remain undeveloped or are held for speculative purposes for several years. For instance, some

private investors have applied and secured large tracks of land of 4,000 to 8,000 hectares in Arusha Region and 5,000 hectares in Dar es Salaam Region. If due care is not taken villagers in the high potential areas and peripheral areas of urban centres will find themselves without any or adequate land at all when all the land or the best land is taken up by new comers.

4.2.8. Policy Statements:

- (i) Special Areas for various investments will be identified and set aside for allocation to investors by the Government.**
- (ii) Land will be allocated to investors according to their ability to develop it and that interests of citizens over their land shall be safeguarded.**
- (iii) Land ceilings will be fixed by Government on the basis of use, location, feasibility study and proven ability of the applicant to develop the said parcels of land.**
- (iv) Land hoarding will be discouraged by strict enforcement of development conditions and by the use of local by-laws, planning and land use regulations.**

4.2.9. PROTECTION OF SENSITIVE AREAS

Over the last ten years a tendency of allocating sensitive areas like small islands to individuals has developed. This practice has caused destruction to these sensitive areas. Even beaches are being privatized without due regard to environmental implication.

4.2.10 Policy Statements:

- (i) Mechanisms for protecting sensitive areas will be created. Sensitive areas include water catchment areas, small islands, border areas, beaches, mountains, forests, national parks, rivers, river basins and banks, seasonal migration routes of wildlife, national heritage and areas of biodiversity. These areas or parts of them should not be allocated to individuals.**

- (ii) All beaches will be public and waterfront development shall be regulated.
- (iii) Marginal land areas will be defined as a **tenure category** requiring special development conditions and punitive charges will be levied for incompatible use and illegal development.

4.2.11. DISPOSITION

There is a tendency of some landholders to speculate or dispose of land before meeting development conditions. This greatly interferes with planned systematic development and fair access to and distribution of land. There is a need to control this tendency. It is a common practice to change ownership of properties, including land, by the sale of shares of a registered company. In this way land allocated to citizens through a local company may be transferred to non-citizens or foreign companies. The policy that only citizens should have preferential access to land can thus be eroded and citizens can be used by foreigners to get land without going through the Investment Promotion Centre and without having to pay land rent and other charges applicable to non-citizens in foreign currency.

4.2.12. Policy Statements

- (i) Though land has value a landholder can only transfer the Right of Occupancy. Special taxes will be imposed to deter land speculation.
- (ii) No disposition will be allowed unless all development conditions have been complied with. However, dispositions in the form of sale and mortgages will be allowed to transfer the obligation to meet prescribed development conditions.
- (iii) Regulations will be drafted to protect risk groups such as displaced persons, children and lower income people.

- (iv) No disposition of land under statutory Right of Occupancy other than land acquired through customary tenure and Operation Vijiji will be allowed within the first three (3) years of its acquisition.
- (v) The consent of the Minister or his appointed land officers is not necessary for market transfer to take place.
- (vi) When majority shares in a local company changes from citizens to foreigners the minister shall convert the right of occupancy to a leasehold.

4.2.13. REVOCATION

In normal circumstances any party granted a Right of Occupancy over a piece of land, is guaranteed free enjoyment of the same during all the term of the said Right of Occupancy, provided that the landholder fulfills all the conditions implied and stipulated in the Certificate. However, land is frequently not developed according to the conditions stipulated in the certificate of occupancy. The land law also empowers the President to revoke Rights of Occupancy in the public interest. However, Public interest is not defined under the law. As a result some land administrators have misused these powers.

4.2.14 Policy Statements:

- (i) An Allocating Authority shall initiate the process of revocation if development conditions contained in the Certificate of Occupancy are not met. The President shall retain the power of revocation.
- (ii) Conditions and procedures for revocation of rights to village land will be defined by the Village Assemblies.

4.2.15. ACQUISITION

Statutory law gives power to the President to acquire land for public purposes or for redevelopment. This is necessary for the Government to be able to get land for development projects. However, no clear legal

definition of public interest exists under current law and the aggrieved party cannot appeal against the acquisition.

4.2.16 Policy Statements:

- (i) The President's powers to acquire land for public interest will be maintained. However reasons for acquisition must be clearly spelt out.
- (ii) A clear legal definition of "public interest" will be established by law.
- (iii) Acquisition of land in the public interest may be challenged in a court of law.
- (iv) Compensation for land acquired in the public interest will be based on the principle of "opportunity cost."

4.2.17. LAND VALUES

The notion or belief that land has no value has been a hinderance to offering land as a share during negotiations to create joint ventures in various projects and for developing appropriate procedures for determining land rent and land based taxes. This notion is wrong because land has scarcity value and that is why land markets have evolved in urbanizing areas and in densely populated regions throughout Tanzania.

4.2.18 Policy Statements

Henceforth land has value and land values will be recognized in all transactions involving land and in the assessment of land rent. When land is offered as a share and contribution to joint ventures or investment projects, value will be assessed depending on the use and location of the land and the intrinsic quality of the land in question.

- (i) Land rent payable annually for any allocated land shall be based on the economic value of the land in question. Land rent for land leased to non-citizens shall be payable in convertible foreign currency.

- (ii) All land transactions shall be subject to taxation.
- (iii) All land transactions shall be registered with the Registrar of Land Titles before taking legal effect.

4.2.19. COMPENSATION

The existing law provisions on compensation exclude certain items or qualities in the assessment of compensation. As a result, complaints on compensation are centred on inadequate rates and disregard for alternative assessment techniques. Delays in paying compensation is also a main concern of many people.

Presently in assessing the value of land and unexhausted improvements for compensation purposes, the law emphasizes that value should be determined by the price which the unexhausted improvements can fetch if sold in the open market. But this price, in normal circumstances is lower than the replacement value but higher than the initial construction cost of the said improvements.

4.2.20 Policy Statements

To reduce these problems, compensation for land acquired in the public interest will be based on the concept of opportunity cost and will include:-

- (i) market value of the real property.
- (ii) disturbance allowance;
- (iii) transport allowance;
- (iv) loss of profits or accommodation;
- (v) cost of acquiring or getting the subject land;
- (vi) any other costs or capital expenditure incurred to the development of the subject land; and

- (vii) compensation should be paid promptly, and if not paid in time, interest at market rate will be charged.

4.2.21. LAND REGISTRATION:

Land is a limited resource. Therefore in order to ensure proper management, it is necessary to maintain a good land information system. It is important to know how much land is occupied by whom and for what purposes and how much land is still left out for further development. This is important for planning purposes and for the protection of the existing Rights. For the time being records are poor because of the following reasons:

- (i) Most land occupied under customary laws and under Operation Vijiji is not recorded or registered.
- (ii) Statutory allocations for example National Parks, Forest Reserves etc. are not registered and as a result many such areas are encroached upon and alienated.
- (iii) Government allocations (for example land under government buildings etc) are never registered. Therefore encroachment of these areas is very common.
- (iv) Because of the slow process in the preparation of Certificates of Right of Occupancy many alienated areas remain un-registered for many years and because of this a number of double allocations occur resulting in many land disputes.

4.2.22 Policy Statements:

For control, and maintenance of a proper land information system and for the elimination of the present problems, the Government will do the following:

- (i) For granted Right of Occupancy the Government will ensure that the grantee gets his copy of the Certificate of

Title within 180 days from the date he gets the letter of offer of the land in question.

Otherwise after the expiration of that period the said grantee will be allowed to register the Letter of Offer with the Registrar of Titles as notice of impending ownership.

- (ii) There shall be a Certificate of Occupancy issued for all government and public properties including National Parks and any allocation made for public uses. Such public properties shall be registrable with the corresponding Zonal Registrar of Titles.
- (iii) Residents in unplanned urban settlements shall have their rights recorded and maintained by the relevant land allocating authority and that record will be registered.
- (iv) Registration of customary interests in land be compulsory to safeguard the interest of the villagers.
- (v) There shall be a mechanism whereby a copy of land records registered at all corresponding Zonal Registries will be stored at the Central Registry as a national archive for land records.
- (vi) Village land will be demarcated and specific common property resources titled to the village.
- (vii) Land Registry offices will remain under the Ministry of Lands and village land registries be consolidated in the Central Land Registry.
- (viii) Land Registry offices will be gradually decentralized.
- (ix) All land should be demarcated and titled upon request by an individual village. The individual/village should bear the cost. However where the government feels there is urgent need for systematic demarcation and titling, the exercise should be paid for by the government.

4.2.23. SETTLEMENTS ON ALIENATED LANDS

There are a number of tenurial problems in areas that were alienated to settlers or companies during the colonial period. However, with the nationalizations resulting from the Arusha Declaration of 1967, many of the occupiers abandoned the farms and left the country. But no legal steps were taken to divest such lands from the registered owners. With the introduction of Vijiji vya Ujamaa and Operation Vijiji, most of these lands (farms) were invaded and settled upon by villagers and institutions who are now developing the lands. Because of the existence of the old titles the villagers acquire no tenurial rights other than squatters rights. Individuals cannot obtain titles necessary as securities for their investments, because of the existence of the old titles. Villages and villagers cannot obtain their certificates of occupancy because of the same reason. With the liberalization of trade the former occupiers have come back and villagers are unilaterally evicted from these farms. All these result in land disputes and discontent among the people.

4.2.24 Policy Statement:

Before people are resettled in alienated or abandoned farms, legal steps will be taken to extinguish the existing rights through revocation and acquisition procedures. It is only after these procedures have been completed that land can legally be redistributed among eligible citizens.

4.2.25. DISPUTE SETTLEMENT MACHINERY

Efficiency in Land Administration in the country has declined and now land has become a source of frequent disputes. There is no formal hierarchical arrangement among these different institutions involved in dispute settlement. Most of the disputes result from multiple allocating institutions, poor records keeping, lack of, or failure to follow laid down procedures in both allocations, revocations and acquisitions.

Since the Ministry of Lands is involved in the land delivery system and might be involved in one way or another in these disputes, it would be improper for the Ministry to deal with dispute settlement. The Courts would be ideal for the job, but due to their work-load, most of

the courts are loaded with other disputes and very little time is given to land disputes. Disputes remain in courts unsettled for more than 20 years

4.2.26 Policy Statement:

There is need to have a well established land dispute settlement machinery. Therefore existing quasi-judicial bodies should be strengthened to deal with such disputes. Such bodies shall start from Mabaraza ya Wazee ya Ardhi to quasi-judicial bodies at the district, regional and national levels with appeals to the High Court on points of law.

4.2.27 VILLAGE TITLING

In order to control land in villages and to protect it from alienation to foreign investors, Village Councils will be given documents indicating boundaries of their land but this will not amount to village titling. Village Titling has more disadvantages than advantages. The only advantage of village titling is the protection of village land, which could be attained even through a document showing the village boundaries (Certificate of Village Land) and giving village assemblies a hand in land administration. Village Titles are not negotiable and therefore cannot be used as a collateral. Instead, such titles will be impediments to individuals who need to invest through mortgages as they cannot get titles for their lands.

4.2.28 Policy Statement

Individuals should be allowed to obtain individual titles within an area not designated for communal uses, land conservation and other specified village or community projects. These areas need protection against encroachment by outsiders and individual villagers. Villagers through their village assemblies will therefore be allowed to survey such lands and get separate Certificates of Village Land.

5.0 SURVEYS AND MAPPING

5.1 SURVEYS

At present, cadastral surveying (surveying of plots and farms) is done mainly by the government. The private surveyors are involved to a very small extent in cadastral surveying because they lack physical and financial resources. Dependence on the limited resources of the government has resulted in the inability to survey the land to meet the ever increasing demand. The shortage of plots is acute in the fast growing urban centres such as Dar es Salaam, Morogoro, Arusha, Mwanza and Mbeya. For example, in 1989/90 the national demand for new plots was estimated to be 157,000 while in the same year only 11,146 plots were surveyed.

5.1.1 Policy Statements:

In order to be able to survey the land to meet the ever increasing demand the Government will do the following:-

- (i) undertake all basic and control surveys (topographical, geodetic, hydrographic, triangulation). Government certified private Land Surveyors will be encouraged to play a bigger role in the execution of cadastral surveys.
- (ii) supervise, check and approve all cadastral surveys in accordance with the laid down laws and regulations.
- (iii) devise a mechanism which will ensure that all survey costs are met by the beneficiaries. Appropriate cross-subsidization for schemes meant to benefit the low-income families will be established.
- (iv) Where the government feels that there is an urgent need for compulsory and systematic demarcation (surveying), the government should pay for the cost.

5.2.0 VILLAGE DEMARCATION

During Operation Vijiji which involved resettlement of people in new areas, some of those boundaries underwent changes to accommodate the operation. After Operation Vijiji, more than 7,000 villages were registered under the Villages and Ujamaa Villages (Registration, Designation, Administration) Act No. 21 of 1975. Village boundary surveys and titling necessitated the physical demarcation of boundaries. This exercise increased people's awareness of the value of land and the implications of those boundaries on natural resource use.

5.2.1 Policy Statements:

- (i) In order to protect the villagers' land rights and promote better and sustainable use of the natural resources within those villages, the Government will continue to provide guidance on village boundary demarcation. However, in order to speed up the village boundary demarcation the method of using General Boundaries will be employed. The use of General Boundaries method does not preclude the use of fixed boundaries method where appropriate.
- (ii) Village boundary disputes will be settled by the relevant dispute settlement machinery. In order to avoid unnecessary delays in settling village boundaries disputes, fixed periods will be set within which solutions must be reached.

5.3.0 MAPPING:

The Government is at present involved in the preparation of all types of maps. It is also involved in the revision of these maps. Given the high costs of map-making and revision and the limited resources at the disposal of the government, the government has not been able to produce and or revise these maps needed for various purposes especially for the execution of development projects.

5.3.1 Policy Statement:

In order to meet the increased demand for maps, the government will concentrate on the preparation of basic maps such as topographical maps of the scale 1:50,000, 1:2,500, etc. Preparation of other types of maps such as tourist maps, special areas maps etc., will be left to the private sector and other organizations. However, the Government will ensure that these other agencies operate in accordance with the laid down laws and regulations.

5.4.0 LAND INFORMATION SYSTEM

An accurate and complete data base on land is essential for proper and efficient land management. At present information and data on the following aspects is scanty and scattered (i) location of various parcels of land (ii) size or acreage of these parcels (iii) size and shape of those parcels (iv) names and addresses of occupiers (v) use of those parcels, (vi) annual rent of those parcels of land, and (vii) dates when such rents are to be paid and or reviewed. The volume of data has also substantially increased thus making it difficult to be handled by the existing manual system.

5.4.1. Policy Statements:

- (i) In order to build up an accurate and complete land information system with up-to-date data, the Government will change the technology of storing information and data by computerizing the records.
- (ii) The staff will be trained so as to be able to handle the new technology.

6.0 URBAN AND RURAL LAND USE PLANNING

6.1.0 URBAN GROWTH

For the past three decades, Tanzania has been experiencing rapid urbanization. The population growth rate for most towns has persistently been high, averaging 6 to 10 per cent per year. The urbanization which is taking place is mainly a result of rural to urban migration and natural population increase. Due to the rapid urbanization, existing towns have grown extensively and new towns have been formed as more rural settlements expand and transform themselves into townships.

6.1.1 Urbanization is an integral feature of all modern societies and the attendant physical expansion of towns is expected to continue for the foreseeable future. Urban areas will therefore become the future permanent settlements for the majority of Tanzanians. While urbanization is inevitable and desirable for the development of Tanzania, the impacts of uncontrolled expansion of towns, particularly the encroachment upon productive rural agricultural and pasture lands are not desirable.

6.1.2. Policy Statements:

- (i) The Government will institute measures to limit the loss of agricultural land to urban growth by controlling lateral expansion of all towns. In addition to minimizing the demand for urban building land, both compact development and vertical extension of buildings will (a) reduce the costs of installing, operating and repair of infrastructure facilities and utilities, and (b) shorten intra-urban distances. Both the nation and individuals will save on the time and costs of travel between different areas of towns.
- (ii) Urban land use and development plans will aim at more intensive use of urban land.

To achieve these objectives the Government will undertake the following:-

- (a) revise all space and planning standards, including standards for provision of infrastructure to promote more compact form of buildings in all urban areas.
- (b) zone out more areas of towns for vertical development so that whenever it is socially acceptable, and technically and economically feasible, more dwelling units will be accommodated in the residential plots. Within town centres and in the immediate surroundings of town centres, vertical extension will constitute the principal building form.

6.2.0 EXTENSIVE TOWNSHIP BOUNDARIES

Existing statutory boundaries of most towns in Tanzania are extensive. Most of them have been arbitrarily determined and bear no relationship with the existing size or future growth needs of the towns. Most urban authorities have tended to expand the areas under their jurisdiction in order to enclose large populations as a way of justifying their classification into the higher status of a municipality or city. Dar es Salaam City boundaries for example cover an area of 1,393 square kilometres enclosing 52 self-governing villages. Similarly Sumbawanga township with a much smaller population has a statutory boundary covering 1,329 square kilometres. On the other hand Moshi Municipal boundaries only cover 20 square kilometers though the Municipality has a higher urban population than Sumbawanga. The 20 regional towns cover a total area of 7,076 square kilometres which is about 0.8 per cent of the total land area in Tanzania mainland

This situation creates the following problems:-

- (i) uncertainty in the tenure and use of rural land which is enclosed within the urban boundaries.
- (ii) administrative conflicts between the urban authorities and Governments of the enclosed villages.
- (iii) the limited financial, material and technical resources for the provision of services by urban authorities are stretched

over large areas and their ability to effectively manage planned development and to provide services to the population in their areas of jurisdiction is thereby eroded.

6.2.1 Policy Statements:

The Government will ensure that urban boundaries are realistically determined to include areas that are developed for urban purpose with adequate reserve only for actual growth needs of the towns. Assessment and determination of new boundaries will be based on:-

- (i) the realistic need of additional land for growth;
- (ii) the rate of population increase of each town for a definite planning period;
- (iii) the financial, technical and organizational capacity of the urban authority to manage planned development of land and to provide services; and
- (iv) establish joint area planning committees for municipalities and district councils for planning of overlapping urbanizing areas.

6.3.0 CONFLICTS OF STATUTORY AND CUSTOMARY TENURE

Expansion of existing towns and establishment of new towns take place on land that is mainly held under customary land rights. Existing customary land rights are presumed extinct following declaration of planning areas. No legal procedures are instituted to formally extinguish the customary land rights before the land is reallocated for urban development. Consequently disputes arise due to the conflicts between statutory tenure and the unextinguished customary land rights.

6.3.1 Policy Statements:

The aim of the Government is to ensure that disputes and conflicts of interest on land are not created in the process of expansion or creation of towns. Declaration of planning areas does not automatically

extinguish customary rights. Therefore, upon declaration of planning areas, preparation of urban land use plans and development plans in new areas shall be preceded by the following procedures:

- (i) All interests on land including customary land rights that exist in the planning areas shall be identified and recorded.
- (ii) The due process of law will be instituted to extinguish formally existing land rights in the planning areas.
- (iii) The land rights of peri-urban dwellers will be fully recognized and Right of Occupancy issued.
- (iv) In the case of planning areas being developed for residential purposes, existing residents will be allocated plots of land for their use and occupation only, to be developed in accordance with provisions of the plan. In all other cases, fair compensation will be promptly paid.

6.4.0 UNPLANNED URBAN SETTLEMENTS

More than fifty percent of urban residents in Tanzania live in poor conditions in unplanned settlements. They have no access to sanitary and other basic services. They also have no security of tenure. Existing unplanned settlements contain a considerable stock of houses and other buildings which must be preserved. The aim of the Government is to ensure that all urban residents are provided with basic services that are essential to human health.

6.4.1 Policy Statements:

The efforts of the Government will be directed towards arresting the growth of unplanned settlements by:-

- (i) timely planning all the potential areas for urban development in the periphery of all towns;

- (ii) designating special areas for low income housing with simplified building regulations and affordable level of services;
- (iii) existing areas will not be cleared but will be upgraded and provided with facilities for adequate sanitation and other basic services except for unplanned housing in hazardous area; and
- (iv) upgrading plans will be prepared and implemented by local authorities with the participation of residents and their local community organizations. Local resources will be mobilized to finance the plans through appropriate cost recovery systems.

6.5.0 RENEWAL OF INNER TOWN/CITY AND BLIGHTED AREAS

The centres of towns constitute prime areas of supreme economic importance and should be intensively developed. At present, the centres of most towns in Tanzania are underutilized. The pressure for office and commercial space in the centres of towns causes high land values. Current owners of prime urban land areas appropriate excess value due to their location and publicly funded investment in urban infrastructure and services. The excess value which accrue to current owners of town centre buildings is a reflection of the high value of serviced urban land. Part of the value so appropriated should accrue to the Government. It is the intention of the Government to ensure that all central areas and other dilapidated areas of towns are properly redeveloped.

6.5.1. Policy Statements:

- (i) Urban renewal plans will continue to be prepared for such areas in all cities, municipalities and in all towns.
- (ii) When reallocation is necessary, public properties in areas of urban renewal shall be sold in a transparent manner including by tender. Private properties shall be sold at market value and betterment value shall be shared by Government to recover costs of infrastructure and services.

Appropriate measures will be devised to safeguard the interests of displaced tenants.

6.6.0 PROTECTION OF PUBLIC OPEN SPACES AND OTHER URBAN LAND FOR PUBLIC USE

Sites set aside in urban areas for public activities including open spaces, sites for schools, public utility easements and other community facilities are often abused or invaded by private developers to the disadvantage of the general public.

6.6.1 Policy Statements:

- (i) The Government will ensure that all sites that are set aside for public activities in urban areas are protected from encroachment by developers and that they are used for their intended purpose only.
- (ii) Public open spaces and other sites for public uses will be surveyed to determine their boundaries. All sites for public activities in towns shall be licensed to appropriate authorities including local Community Based Organizations, NGO's and others who will be required to develop and maintain the sites for prescribed public use. Where necessary user charges will be levied to recover the costs of installation and operation.

6.7.0 URBAN AGRICULTURE

Agriculture is not a principal function of towns but when properly organized, urban agriculture has the potential to provide employment, income, and is a supplementary source of food supply. In their present form agricultural activities often conflict with the proper planning of urban land uses. In some cases agricultural activities are conducted in fragile environments or hazardous areas of towns resulting in land degradation and water pollution. In other cases agricultural activities are carried out in areas that are affected by industrial pollution. The keeping

of livestock in urban residential, commercial and institutional areas for example is hazardous to the health and safety of urban residents.

6.7.1 Policy Statement :

The Government will continue to regulate the conduct of urban agriculture and will ensure that it does not disrupt planned urban development.

6.8.0 EFFECTIVE PLANNING FOR URBAN DEVELOPMENT

Planning for urban development has been based on comprehensive Master Plans. By definition a master plan is primarily a blue-print plan for the physical, social and economic development of a town over a long time period of usually 20 years. The planning process prescribes a fixed physical structure as a basis for social and economic activities. Master plans are therefore inflexible and cannot be easily adapted to constantly changing circumstances.

6.8.1 Policy Statements:

Considering the rapid urbanization now taking place and the paucity of public resources that can be set aside for planning and development, the Government will adopt less costly methods to prepare and execute urban plans including the following:

- (i) strategic planning and rapid appraisal for the identification of key planning issues in land and environmental management, and in the provision of housing, infrastructure and services;
- (ii) preparation of detailed land use plans for land development;
- (iii) identifying resources and mobilization of local resources for implementing urban development programmes and projects; and
- (iv) promoting local community participation in planning, integrating, and coordinating the actions and resources of

various sectoral implementing agencies including those in the private and popular sectors.

6.9.0. DEVELOPMENT OF INTERMEDIATE SETTLEMENTS

Planning attention has in the recent past focussed on village settlements and the designated urban centres. At the intermediate level, there are several settlements which are growing very fast. At present these settlements have been largely neglected in the planning process and they are likely to grow into unplanned urban centres in the near future.

6.9.1. Policy Statement:

District councils will prepare General Planning Schemes for all intermediate settlements within their areas of jurisdiction. The schemes shall contain simple land use development proposals and detailed land subdivision plans to ensure orderly development.

6.10.0 VILLAGE LAND USE PLANNING

Progress in village land use planning has been very slow and without adequate participation of the users. The land use plans consist of rigid land use zoning which is sometimes not suitable for proper management of rural land resources.

6.10.1 Policy Statements:

The village land use planning process will be simplified for speedy execution. Village land use planning will be based on the following criteria:

- (i) Local land use plans will be developed by District Councils in collaboration with Village Councils.
- (ii) Land use planning will be done in a participatory manner to involve beneficiaries. Planning will be preceded by studies to determine existing land tenure, land use patterns and land capability.

- (iii) Village land use plans will be used as a tool for implementing policies for better land use and management. Furthermore, village land use plans will provide a basis for guiding extension service packages including techniques in agriculture, livestock, forestry, wildlife, fisheries and environmental conservation.

6.11.0 AREAS OF POPULATION PRESSURE AND RESETTLEMENT

Although Tanzania is favoured with abundant arable land, fast population growth has created high population densities and land scarcity in some parts of the country. The Government's policy has been to encourage resettlement of population from the land scarcity areas to areas of low population density. Resettlement is however done without assessing the land use patterns and land carrying capacity in the resettlement areas.

6.11.1 Policy Statements:

In future resettlement of population will be preceded by land use plans which will be prepared for the receiving regions and districts. The plans will assess the land use patterns and land carrying capacity to establish the capability of land to support additional population and livestock. In addition to resettlement of populations from land scarcity areas the following measures will also be taken:-

- (i) Large scale investments in agriculture and similar activities which require large tracts of land will be directed to the areas which have underutilized potential on the basis of the regional and district land use plans.
- (ii) Strategic land use plans will be prepared to cope with crisis situations such as resettlement of refugees or people displaced by natural disasters.

7.0 LAND USE MANAGEMENT

7.1.0 COORDINATION OF LAND USE:

Land is the platform of all human activities. Therefore whatever is done in any sector of the economy has an impact on land. At present licenses, rights, and claims such as for mining, water rights, hunting rights/leases and timber harvesting licenses are issued without regard to existing land tenure rights. This creates land use conflicts and disputes between the allocators of land and other users. For example hunting rights in Ngorongoro and Kiteto districts, mining in Ifakara and Chunya districts, timber harvesting licenses in Tanga and Lindi regions, have caused serious land use conflicts.

7.1.1 Policy Statements:

- (i) Before user rights such as for mining, timber harvesting, hunting, etc. are considered, existing land tenure rights should be recognized.
- (ii) An Interministerial Committee should be formed by the relevant ministries to ensure consultation between the issuing authorities and the Ministry responsible for Lands.
- (iii) The government will ensure that permits, licenses, claims and rights for exploitation of natural resources are issued in line with land use policies, and environment conservation policies and programmes.

7.2.0 AGRICULTURAL LAND USE:

There are growing conflicts between agriculture and other land uses as both human and animal populations increase. This has resulted in the encroachment of forest, woodland, wildlife and rangelands.

7.2.1 Policy Statements:

- (i) Multiple land use techniques will be encouraged in areas of conflicting land use.

- (ii) Community involvement in resource management, land use planning and conflict resolution will be necessary.
- (iii) Agricultural land will be identified, set aside for agricultural use and protected against encroachment by pastoralists.
- (iv) Resource sharing will be promoted.

7.3.0 RANGELANDS AND LIVESTOCK KEEPING:

There are growing social conflicts, environmental concerns and land use conflicts due to haphazard alienation of rangeland for large scale agriculture. These extensive alienations frequently disown pastoralists of their grazing lands.

7.3.1 Policy Statements:

- (i) Security of tenure for pastoralists in pastoral land areas will be guaranteed by appropriate measures including gazetting to protect grazing land from encroachment.
- (ii) Certificates of Village Land will be issued to protect common property regimes.
- (iii) Underutilized or neglected former pasture land will be reclaimed and restored to pastoralists, when not in conflict with national interests.
- (iv) When any activity other than pastoralism ceases in rangelands (eg. abandoned ranch) that land will revert to its original land use.

7.3.2. The free movement of pastoralists with their cattle bring about land ownership and land use conflicts with settled communities. Unregulated movement of livestock causes land degradation in areas through which they pass.

7.3.3 Policy Statements :

- (i) Shifting agriculture and nomadism will be prohibited.
- (ii) Incentives to proper pastoral land stewardship including the provision of infrastructure like water supply and cattle dips should be provided and modern transhumantic pastoralism will be encouraged.
- (iii) Cattle movement will be regulated through coordinated planning and the provision of stock routes and other mechanisms.
- (iv) Pastoralists and Agriculturalists/peasants will be educated on good land management and utilization.

7.4.0 OVERLAPPING LAND USE AREAS

Overlapping land uses in game controlled areas occupy most of the land in Kiteto, Monduli, Ngorongoro and other districts. - An overlapping land use allows other activities like agriculture, settlements, and ranching to take place simultaneously. Some of the game controlled areas are critical habitats for wildlife in a given season. They also form wildlife migration routes during the seasonal rhythms brought about by climatic changes. Those areas have serious land use conflicts and disputes. So far overlapping land uses like game controlled areas can only be mixed or combined with livestock keeping.

7.4.1. Policy Statement :

Game controlled areas shall be buffer zones between national parks or game reserves and settlements/agriculture. Game controlled areas not bordering Wildlife conservation areas will either be upgraded or be turned to land for resettlement. Before upgrading or turning game controlled areas to resettlement land, detailed studies will be made to determine the wildlife ecosystems in the game controlled areas.

7.5.0. LARGE SCALE FARMS

The large scale farms and ranches allocated in Loliondo, Kiteto, Monduli and other districts with wildlife have blocked and will continue to block Wildlife migration routes. Wildlife migration routes are very important for the maintenance of the wildlife ecosystem. The blocking of migration routes may lead to extinction of certain species of wildlife which respond to seasonal changes.

7.5.1. Policy Statement:

Wildlife migration routes will be protected. All titles to farms and ranches blocking migration routes shall be revoked and added to protected public lands.

7.6.0 WETLANDS:

Wetlands are considered as wastelands and are thought as being not useful for social and economic development.

7.6.1 Policy Statement:

Wetlands will be properly studied and proper land uses shall be determined. Wetlands will be allocated to appropriate users.

7.7.0 COASTLINE:

Beaches, coastlines and islands are attractive lands for the location of hotels, private homes etc. The utilization of such lands is done without due regard to environmental implications.

7.7.1 Policy Statements:

Mechanisms for protecting beaches, coastlines, and islands will be created such as:-

- (i) Construction of tourist hotels, residential buildings and recreational activities along the coastline/islands shall be

regulated to prevent coastline erosion and ensure public access.

- (ii) Coastline land development shall be done after an environmental impact assessment (EIA) study has been carried out.
- (iii) A Coastal Zone Integrated Development and Management Programme will be prepared for conservation of both land and aquatic environments.

7.8.0 FISHERIES

Traditional fishing has concentrated on the sea, lakes and rivers. Most of the rural people cannot depend on traditional fishing. There is a big potential for some investors to establish fish farms, however potential areas for this activity have not been identified.

7.8.1 Policy Statements:

- (i) Land suitable for terrestrial fishing will be identified in the normal land use planning process and conserved to promote fish farming.
- (ii) Allocation of land for large scale fish farming will be based on realistic requirements.

7.9.0 PROTECTION OF HAZARD LANDS

There is increasing encroachment on hazard lands for housing and other developments in towns. Such areas including river valleys, areas of steep slopes, mangrove swamps, marshlands are being intensively developed. Apart from the dangers that they pose to life and property, such developments contribute to land degradation, pollution and other forms of environmental destruction.

7.9.1 Policy Statement:

Measures will be taken to prevent building on hazard lands and on all fragile environments. Hazard lands should be developed for public uses benefiting the local community.

8.0 INSTITUTIONAL FRAMEWORK

8.1.0 Prior to the enactment of the Decentralization Act in 1972, there was only one institution that was responsible for land matters at all levels of operation. Even after decentralization, the system remained the same and continued to operate without major problems. However, problems in land administration began to surface in 1978 when local government authorities were reinstated. At that time, the local authorities were provided with land experts in the hope that they will work for the local authorities while observing professional standards and existing laws. The local authorities were to act and are still expected to act as agents of the central government. Contrary to the expectations and for reasons that may be a result of conflicting laws, local authorities managed land but in an uncoordinated manner. The involvement of many institutions in land matters has had the following effects:-

- (i) it has given room to various mal-practices;
- (ii) accountability has been defused especially where and when problems arise;
- (iii) efficiency has been eroded; and
- (iv) decision making and issuance of directives by higher organs to lower levels of government for implementation has sometimes complicated or created more land problems.

8.1.1 Policy Statements:

- (i) In order to reduce conflicts and malpractices in land administration, the Minister responsible for lands shall be the sole authority responsible for land matters. Where delegation of authority is required there shall be a clear and hierarchical system of accountability.
- (ii) All existing laws dealing with land matters shall be rationalized and consolidated.

8.2.0 IMPLEMENTATION

Implementation of a National Land Policy will require the participation of many actors.

8.2.1 Policy Statements:

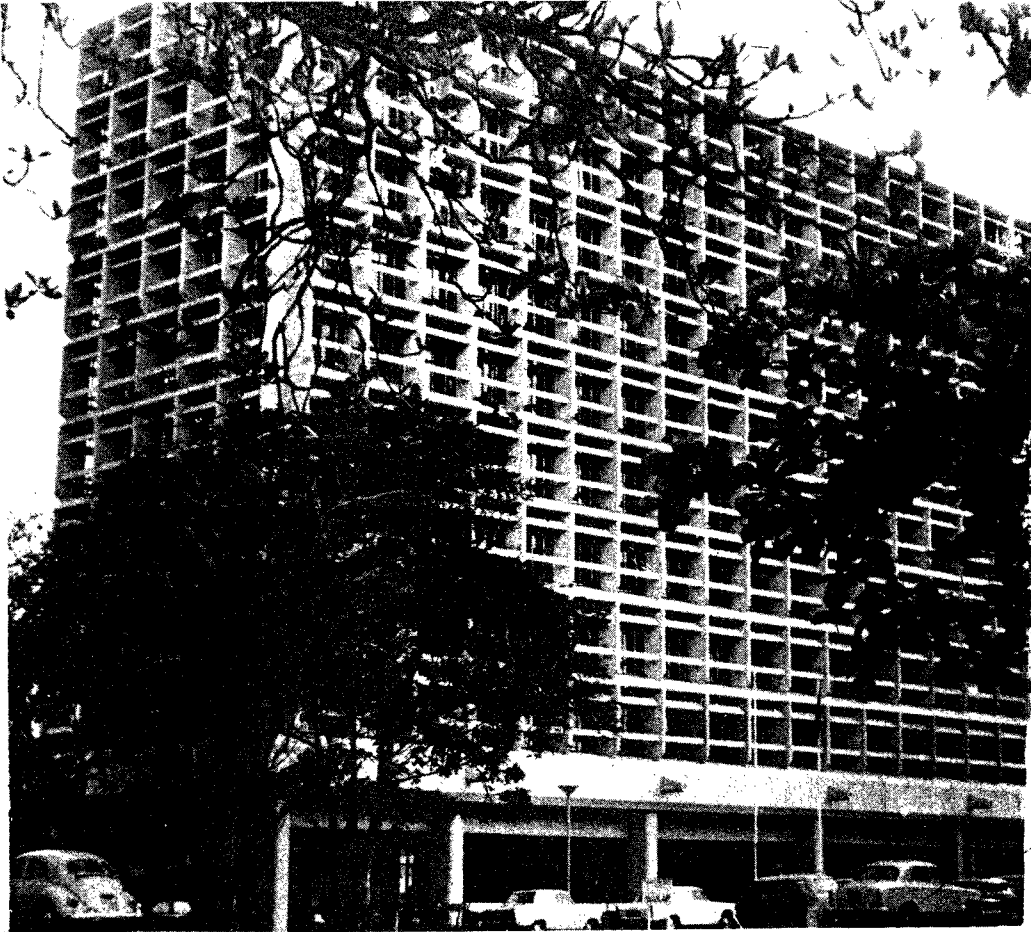
- (i) All ministries, public and private institutions whose functions are associated with land development will work together with the Minister responsible for lands to ensure efficient implementation of the national land policy.
- (ii) Local Authorities shall work together with the Minister responsible for lands to ensure proper land administration in their respective areas of jurisdiction.
- (iii) Non-governmental and community based development organizations, etc., will be encouraged to participate in effective utilization of land.

9.0 CONCLUSION

Since land is one of the four pillars of Tanzania's development philosophy which are people, land, good policies and good leadership, concerted implementation of the above policy statements will promote the best use of land so that land as an investment resource can make the maximum contribution to the country's development process. Secondly, implementation of this policy will help ensure that land is held and used effectively and efficiently and not hoarded for speculative motives. Likewise by creating an efficient institutional framework or structure for land administration which is also transparent, this policy should help streamline and simplify the procedures for getting land rather than make them cumbersome as they are at present thus reduce public complaints on land administration.

Forth, Tanzania's sound land tenure system has played a big role in promoting peace and national unity which are essential to development. Therefore, implementation of this policy which has retained the positive virtues of the existing land tenure system will further enhance peace and national unity. Finally by ensuring and promoting an equitable distribution of and access to land by all citizens, this policy and its accompanying legislation and implementation strategies to be formulated, will play a big role in shaping the type and nature of the Tanzania society this country wants to build in future. Tanzania is a country made up largely of small peasants, pastoralists and a few big farmers. Concerted implementation of this policy will make sure that the numerous small peasants and postoralists who constitute the majority of the country's population are not made landless.

Ministry of Lands and Human Settlement Development
Dar es Salaam Tanzania
June, 1995



MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT
DAR ES SALAAM TANZANIA

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Land (Assessment of the Value of Land for
Comopensation) Regulations, 2001

GOVERNMENT NOTICE NO. 78 published on 4/5/2001

THE LAND ACT

(No. 4 OF 1999)

**THE LAND (ASSESSMENT OF THE VALUE OF
LAND FOR COMPENSATION) REGULATIONS, 2001**

(Made under section 179)

Citation

1. These Regulations shall be cited as the Land (Assessment of the Value of Land for Compensation) Regulations, 2001.

Interpretation

2. In these Regulations, unless the context requires otherwise -

“Act” means the Land Act, 1999;

“Government” means the Government of the United Republic of Tanzania;

“qualified valuer” has the meaning ascribed to it by section 2 of the Act;

“local government Authority” has the meaning ascribed to it by section 2 of the Act.

Basis

3. The basis for assessment of the value of any land and unexhausted improvement for purposes of compensation, under the Act shall be the market value of such land.

Market Value

4. The market value of any land and unexhausted improvement shall be arrived at by use of comparative method evidenced by actual recent, sales of similar properties or by use of income approach or replacement cost method where the property is of special nature and not

Land (Assessment of the Value of Land for Compensation)

G.N. No. 78 (contd.)

5. Every assessment of the value of land and unexhausted improvement for the purposes of the Act shall be prepared by qualified valuer.

Qualified
valuers

6. Every assessment of the value of land and unexhausted improvement for the purposes of payment of compensation by Government or Local Government Authority shall be verified by the Chief Valuer of the Government or his representative.

Chief
valuer

7. Compensation for loss of any interest in land shall include value of unexhausted improvement disturbance allowance, transport allowance, accommodation allowance and loss of profits.

Compensation

8. The market rent for the building shall be assessed and multiplied by thirty six months in order to arrive at the accommodation allowance payable.

Accommodation
allowance

9. The net monthly profit of the business carried out on the land shall be assessed, evidenced by audited accounts where necessary and applicable, and multiplied by thirty six months in order to arrive at the loss of profits payable.

Loss of profit

10. The disturbance allowance shall be calculated by multiplying value of the land by average percentage rate of interest offered by commercial banks on fixed deposits for twelve months at the time of loss of interest

Disturbance
allowance

Transport
allowance

11. Transport Allowance shall be the actual costs of transporting twelve tons of luggage by rail or road (whichever is cheaper) within twenty kilometers from the point of displacement.

Unoccupied
land

12. The elements of transport allowance, accommodation allowance and loss of profits shall not be payable for unoccupied land at the date of loss of interest in land.

Interest

13.- (1) The interest upon any compensation shall be paid by the Government or the local government authority only where there is no prompt payment of compensation made.

(2) For the purpose of computing interest payable upon compensation "prompt payment of compensation" means payment of compensation within six months after the subject land has been acquired or revoked.

(3) Where amount of compensation remains unpaid for six months after acquisition or revocation, interest at the average percentage rate of interest offered by commercial banks on fixed deposits shall be recoverable until such compensation is paid.

Dar es Salaam,
3rd May, 2001

G. CHEYO,
*Minister for Lands and
Human Settlement Development*

Land (Compensation Claims) Regulations, 2001

Land (Compensation Claims)

GOVERNMENT NOTICE NO. 79 published on 4/5/2001

THE LAND ACT
(No. 4 of 1999)
**THE LAND (COMPESATION CLAIMS)
REGULATIONS, 2001**

(Made under section 179)

1. These Regulations shall be cited as the Land (Compensation Claims) Regulations 2001. Citation

2. In these regulations, unless the context requires otherwise requires - Interpretation
 - “Act” means the Land Act, 1999;
 - “authorized officer” has the meaning ascribed to it by the Act;
 - “customary right of occupancy” has the meaning ascribed to it by the Act;
 - “granted right of occupancy” has the meaning ascribed to it by the Act;
 - “local government authority” has the meaning ascribed to it by the Act;
 - “Fund” means the Land Compensation Fund established by section 173 of the Act;
 - “peri-urban area” has the meaning ascribed to it by the Act;
 - “urban area” has the meaning ascribed to it by the Act;

3. These Regulations shall apply to all applications or claims for compensation against the Government or local government authority or any public body or institution under the Act who may claim compensation. Application

Land (Compensation Claims)

G.N. No. 79 (contd.)

Compensation

4. The following may claim compensation, that is to say -

- (a) The holder of a granted right of occupancy in respect of general or reserved land which is transferred to village land under Section 5 of the Act or in respect of land the subject of a right of occupancy which is compulsorily acquired by the President for public purposes under Section 22 of the Act or in respect of a right of occupancy which has been revoked under Section 49 of the Act;
- (b) The holder of a granted customary right of occupancy in respect of land which is declared to be hazardous land under section 7 of the Act;
- (c) The holder of a customary right of occupancy where the land becomes the subject of a granted right of occupancy in favour of another person and such holder is moved or relocated under section 34 of the Act.
- (d) The occupier of land which he has obtained under or as a consequence of a disposition by a holder of a granted or customary right of occupancy where such occupier is refused a right of occupancy under section 54 of the Act;
- (e) The occupier of land in any urban or peri urban area where such land is acquired by the President under section 60 of the Act.

Land (Compensation Claims)

G.N. No. 79 (contd.)

5.-(1) The Land (Assessment of Value for compensation) Regulations 2001 shall apply to any application or claim for compensation by any person occupying land.

Compensation which may be claimed by occupier

(2) Without prejudice to the generality of the above, the compensation that may be claimed by any person occupying land shall be -

- (a) the value of unexhausted improvements on the land he is occupying;
- (b) grazing land.

6. The Commissioner or the authorized officer shall cause a notice to be published on a public notice board and serve a notice in a prescribed form on every occupier -

Service of notice to claim compensation

- (a) notifying the occupier of the land which is the subject of compensation;
- (b) requiring the occupier to submit his claim for compensation;
- (c) requiring the occupier to appear physically on such date, time and place where assessment shall be done.

7. The Commissioner or the authorized officer shall cause the valuation for compensation purposes to be undertaken.

Valuation

8. The Commissioner or the authorized officer shall prepare a compensation schedule and submit to the Fund, together with the claim for compensation.

Claim Form

9.-(1) The Fund shall, within not more than thirty days from the date on which the Fund receives the claim

Determination

Land (Compensation Claims)

G.N. No. 79 (contd.)

for compensation and compensation schedule from the Commissioner or authorised officer make verification and accept or reject payment.

(2) This regulation shall apply to all applications or claims for compensation against the Government or local government authority or any public body or institution under the Act.

(3) The compensation under section 156 of the Act shall apply against a non-government corporate body, association or group of persons in whose favour a public right of way is created.

Forms of
compensation

10.-(1) Compensation shall take the form of monetary compensation.

(2) Without prejudice to the generality of the above, compensation may, at the option of the government, take the form of all or a combination of or any of the following -

- (a) a plot of land of comparable quality, extent and productive potential to the land lost;
- (b) a building or buildings of comparable quality extent and use comparable to the building or buildings lost;
- (c) plants and seedlings;
- (d) regular supplies of grain and other basic foodstuffs for a specified time.

Dar es Salaam,
3rd May, 2001

G. CHEVO,
*Minister for Lands and
Human Settlement Development*